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SAN FRANCISCO PORT COMMISSION

Wilfred Hsu, President
Michael Hardeman, Vice President
Sue Bierman, Commissioner
Kimberly Brandon, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax: 415-274-0412

AGENDA

REGULAR MEETING

3:00 P.M. TUESDAY, SEPTEMBER 13, 2005

**PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111**

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

1. CALL TO ORDER / ROLL CALL

DOCUMENTS DEPT.

2. APPROVAL OF MINUTES - August 23, 2005 Meeting

SEP - 9 2005

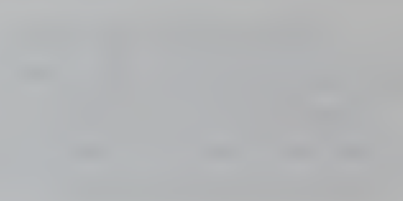
3. EXECUTIVE

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A. Executive Director's Report

09-02-05 P02 16 1000

- Pier 27 Soccer Program Fall 2005
- Commendation for Julia Viera
- Commendation for Carole Migden
- Office of Emergency Services distribution of emergency supplies
- September 14, 2005 - Celebration of the Receipt of Two Carl Moyer Air Quality Grants at 100 Cargo Way (LB Railco Yard) at 11:30 a.m.
- September 15, 2005 - EPA Press Conference at Pier 30/32 at 12 noon
- September 18-22, 2005 - Trade & Friendship Mission to Ireland
- September 27, 2005 - Port Commission Meeting at 2 p.m.
- September 27, 2005 - Reception for Port of Singapore Representatives at World Trade Club at 6:30 p.m.



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4. CONSENT

- A. Request approval of Port/BART Agreement for gates, planters and parking restrictions within Ferry Plaza. (Resolution No. 05-60)

5. ENGINEERING

- A. Request approval of contract modification to Contract No. 2693 Amador Street Improvements. (Resolution No. 05-61)

6. PLANNING & DEVELOPMENT

- A. Informational Presentation on the "Findings of Fiscal Responsibility and Feasibility Ordinance" and recent amendments thereto (San Francisco Administrative Code, Chapter 29). (No Action Required)
- B. Informational Presentation regarding SB 1085, Infrastructure Financing Districts Legislation. (No Action Required)
- C. Informational Presentation regarding Air Quality at Heron's Head Park. (No Action Required)

7. NEW BUSINESS / AGENDA SETTING

- ◆ New Business
- ◆ Agenda Setting (Targeted Commission meeting, subject to change)
 - Request approval to accept and expend \$3.2 million in grant funds from the Transportation Enhancement Activities (TEA) funds for the Illinois Street Bridge (September 27, 2005)
 - Request approval of Pier 38 Settlement Agreement (September 27, 2005)
 - Request adoption of Hyde Street Harbor/Fisherman's Wharf Harbor Berthing Rate Increases for Fiscal Year 2005-2006 (September 27, 2005)
 - Request approval of CTEAC recommendations regarding the feasibility of shoreside power and alternative air emissions technologies at the James R. Herman Cruise Terminal, Pier 30-32 (September 27, 2005)
 - Request approval of lease with M.K. Think for Roundhouse One (September 27, 2005)
 - Request approval of lease with Literacy for Environmental Justice for space at Heron's Head Park for the construction and operation of a Living Classroom Building and the approval of agreement protecting the public interest in certain improvements and development (September 27, 2005)
 - Request authorization to execute month-to-month lease with the Chinese Chamber of Commerce doing business as Southwest Airlines Chinese New Year Festival and Parade located at Piers 27 and 29. (October 11, 2005)
 - Request approval of amendment to Muni Bus Shelter Contract (October 11, 2005)

- Informational Status Report regarding the Illinois Street Bridge Project (October 25, 2005)
- Request approval of Pier 64 Cost Reimbursement Agreement (November 10, 2005)
- Informational Presentation on Rincon Park Restaurants design development (Date to be determined)
- Review of proposed design for Abraham Lincoln Brigade monument (Date to be determined)
- Request approval of MOU with San Francisco Public Utilities Commission for Solar Project for Pier 96 (Date to be determined)

8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

a. Discuss existing litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (3 cases):

- Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.
- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.
- Anthony D. Fotherby v. Port of San Francisco; San Francisco Superior Court Case No. CGC05 444283, filed August 23, 2005.

Discussion and approval of settlement of litigation seeking damages for personal injuries and alleging premises liability. Proposed settlement of litigation upon terms which include Port's payment of \$6,000 and Department of Public Works' (DPW) payment of \$6,000,

in exchange for plaintiff's dismissal of litigation, and full and final release of claims.

- b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case as Plaintiff)

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

This session is closed to any non-City/Port representative.*

- a. Property: Pier 54
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*Water Transit Authority: Steve Castleberry

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 54.

- b. Property: Pier 70
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*BAE Systems, Inc.: Ira Maybaum

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 70.

- c. Property: Piers 27-31
Person Negotiating: Port: Byron Rhett, Deputy Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Piers 27-31.

- d. Property: The Embarcadero Hotel, at Embarcadero and Broadway
Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development
*Stanford Hospitality, Inc: Lawrence Lui

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations regarding the Embarcadero Hotel.

- e. Property: Port property within the area located in the San Francisco Bay between Pier 72 and the northern most point of the Bay just south of the Richmond Bridge

Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development

*Trans Bay Cable LLC: Samuel Wehn

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property within the area located in the San Francisco Bay between Pier 72 and the northern most point of the Bay just south of the Richmond Bridge.

10. RECONVENE IN OPEN SESSION

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.
- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

Vote on whether to approve proposed settlement of litigation entitled Yuen Kiu Fotherby v. Port of San Francisco. (Also listed above, Closed Session, Item No. 10A(1)a.)

11. COMMUNICATIONS

Communications to the Port Commission received from July 22, 2005 to August 18, 2005:

- From Port Staff, letter to Senator Carole Migden regarding SB 1085, Infrastructure Financing Districts
- From Toby Levine, Central Waterfront Advisory Group Co-Chair, regarding EDAW Planning Effort at Pier 70
- From Ralph Wilson, Central Waterfront Advisory Group, regarding EDAW Internship Vision for Pier 70
- From San Francisco Democratic Party, regarding the proposed Mills Piers 27-31 project
- From Paul Osmundson, San Francisco Cruise Terminal LLC, regarding the Cruise Terminal Environmental Advisory Committee recommendations regarding water quality monitoring at the James Herman Cruise Terminal
- From Cathryn Blum, CatBird Locations, regarding the EDAW Master Redevelopment Plan
- From Judy deReus, regarding the EDAW Intern Program Pier 70 Redevelopment Vision Plan
- From Bill Stephens, articles concerning the USS Iowa
- From Norcal Waste Systems, invitation to the Annual Salmon Dinner on September 15, 2005
- From Dorris Mitchell, regarding Living Classroom

- From Neighborhood Parks Council, invitation to the Fourth Annual Gala “Light Up the Night”, a benefit for all San Francisco neighborhood parks
- From Chris Gruwell, Platinum Advisors, invitation to the Barclays Global Investors Grand Prix SF on September 4, 2005
- From Bob Alvarado, Northern CA Carpenters Regional Council, invitation to the 45th Annual Moosefeed Luncheon on December 9, 2005
- From the Potrero Boosters Neighborhood Association, the Potrero Community Voice Newsletter
- From Susan Boshoven, De’Janae Dominguez, Sarah Eitelbuss, Jamaine Williams, Maria Gomez, Kia Horace, Sandra Doane, Luis Jorin, Chantelle Mabrey, Keeya Edwards, Renata Waller, Michelle Peevy, Christine Lee, Stacy Sciortino, Jami Deicke, Tiffany Mabrey, Germain Iglehers, Denise Davis, Rhadele Clayton, Jasmine Render, Monique Iamin, Hebron Viray, Casey Guillebeau, Wanda Green, Kathryn Stein, Dora Vogel, Josie Gonzalez, Demetris Lee, Ira Jean Henderson, Danitra Ford, Heather Manchester, Diane Rivera, Cynthia Taylor, Sarah Fisher, Ashley Hurtado, Ruby Turalba, Elizabeth Bernstein, Elizabeth Fitting, Kathryn Fitzgerald, Teresa Brooks, Marilyn Hertzberg, Naomi Hamburger, Melissa Klein, Nate Amon, Frances Travis, Paula Ginsburg, Sonia Caltvedt, Elisha Rochell, regarding Living Classroom Project
- From Carole Shorenstein Hayes, invitation and introduction to the *Gift of Imagination* program and *Family Stage* on September 28, 2005
- From Pauline Peele, regarding Hunters Point Youth Park resolution supporting the Living Classroom Project
- From Zenobia Barlow, Center for Ecoliteracy, regarding the Living Classroom Project

12. ADJOURNMENT

SEPTEMBER/OCTOBER 2005
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
Sept. 13	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Sept. 27	2:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Oct. 11	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Oct. 25	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. *The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.* Contact Amy Quesada at 274-0406.

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Central Waterfront Advisory Group meets monthly on an as-needed basis generally on the 3rd Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or via email @ Mark_Paez@sfport.com.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets jointly with BCDC's Design Review Board on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. or the Committee meets as needed on the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625.

The Port Permit Appeals Committee meets regularly on the first Thursday of June and December of the year. For further information contact Ed Byrne at 274-0570 or Dan Hodapp at 274-0625.

ACCESSIBLE MEETING INFORMATION

Ferry Building: The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

- A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
- B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets.
- C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. & Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Adele Castro by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Ms. Destro or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine/>

Lobbyist Registration and Reporting Requirements. Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.



MEMORANDUM

September 7, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Agreement with BART to install and maintain certain structures on Port property at the Ferry Platform located immediately east of the Ferry Building.

DIRECTOR'S RECOMMENDATION: Approve agreement between Port and BART for installation and maintenance of certain structures at the Ferry Platform.

Proposed action.

The Bay Area Rapid Transit District ("BART") operates and maintains certain transit facilities underlying the Ferry Platform, immediately east of the Ferry Building, pursuant to a 1965 Agreement for Joint Exercise of Powers with the Port. BART proposes to install and maintain two access gates, three planter-bollards on the Ferry Platform and a floating barrier beneath the Platform as part of its ongoing operation and maintenance of the existing BART facilities. Port staff and BART have negotiated a 4 year agreement for the installation and maintenance of the foregoing structures that are on Port managed-property (the "BART Agreement"). BART has negotiated separate agreements directly with Port tenants for the remaining structures that impact leased property. Port staff recommends that the Commission approve the BART Agreement as negotiated.

Summary of agreement.

One access gate and the three planter bollards proposed by BART would be located within property that is leased to the Ferry Plaza Limited Partnership ("FPLP") and the Golden Gate Bridge Highway and Transportation District ("GGBH"). FPLP and GGBH have signed consent agreements with BART regarding the proposed BART structures

This Print Covers Calendar Item No. 4A

within the respective lease areas, including provisions for requisite access through the BART gates. The second proposed access gate is located within the approximately 2,000 s.f. of the Ferry Platform that has been relinquished to the Port as a part of this project (the "Relinquished Area") by Ferry Building Investors, LLC ("FB Investors") from its long-term leasehold of the Ferry Platform. The Relinquished Area will be documented in a separate agreement between the Port and FB Investors, pending approval of the BART Agreement by the Port Commission.

Port staff estimates that the acceptance of the Relinquished Area will cause the Port to incur maintenance costs of approximately \$12,000 over the four-year term of the BART Agreement. BART has agreed to pay Port this estimated maintenance cost of \$12,000 concurrent with execution of the BART Agreement, so that the Port does not incur any net additional costs as a result of the proposed project. BART anticipates undertaking a major seismic retrofit of its facilities at the Ferry Platform sometime between 2007 and 2009 during which time the Relinquished Area may be contained within the construction site and surface maintenance by the Port would not be required.

In the BART Agreement, the BART also proposes that the Port implement certain parking restrictions on the Ferry Platform in the vicinity of BART facilities, including the parking by vendors of the Ferry Building farmers' market. The BART Agreement includes provisions for the Port to issue parking permits for certain farmers market vendors that park unattended vehicles on the Ferry Platform and for FPLP and GGBH to park vehicles related to their respective maintenance obligations, and for providing BART with a list of the names and affiliation of the parking permittees.

Recommendation.

Port staff recommends approval of the BART Agreement to allow BART to construct and maintain certain structures on Port property and for the Port to institute parking restrictions in the areas adjacent to such structures, pursuant to the terms and conditions of the form agreement on file with the Commission Secretary.

Prepared by: Kari Kilstrom

For: Byron Rhett
Planning & Development

RESOLVED, That the Port Commission authorizes the Executive Director to execute and enter into any additions, amendments or other modifications to the BART Agreement (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines is in the best interests of the Port, do not materially increase the obligations or liabilities of the Port or City or materially decrease the public benefits accruing to the Port, and are necessary or advisable to complete the transactions which the BART Agreement contemplates and to effectuate the purpose and intent of this resolution, and any additional documents as she deems necessary or appropriate, in consultation with the City Attorney, to consummate the transactions contemplated hereby or to otherwise effectuate the purpose and intent of this resolution, such determinations to be conclusively evidenced by the execution and delivery by the Executive Director of the BART Agreement and any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 13, 2005.

Secretary



MEMORANDUM

September 7, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director *Monique Moyer*

SUBJECT: Approval of Change Order No. 1 to Contract No. 2693 for construction of the Amador Street Improvements, increasing the contract amount by \$58,525.10 and extending contract schedule by 335 calendar days.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STAFF TO INCREASE THE AMOUNT OF CONTRACT NO. 2693 BY \$58,525.10 AND EXTEND THE CONTRACT TIME BY 335 CALENDAR DAYS THROUGH EXECUTION OF CHANGE ORDER NO. 1 WITH GORDON N. BALL, INC FOR CONSTRUCTION OF THE AMADOR STREET IMPROVEMENTS

INTRODUCTION

Through Resolution No. 04-78, the Commission authorized the award of Construction Contract No. 2693 to Gordon N. Ball, Inc., in an amount of \$399,150.00 with a 10% contingency. The Notice to Proceed established November 8, 2004, as the start date for the Work. Duration of the original contract was set at 75 working days with Final Completion due in January 2005. The contract scope as awarded consisted of two primary work items: 1) Construction of a temporary paved road linking Piers 90-92 and Piers 94-96; and 2) Construction of an access road to the future site of the Pier 94 Wetlands. As a deductive alternate bid item to the contract, the second item may be removed from the contract scope at a later time. Due to unforeseen delays and significant changes in project construction scope, the contract must be modified as required by Chapter 6 of the Administrative Code and other City requirements. The contract modifications sought by Port staff, as described herein, exceed the 10% contingency previously authorized by the Commission in Resolution No. 04-78.

BACKGROUND

On December 1, 2004, the Port received a Notice of Differing Conditions from the Contractor related to disturbance of more than 50 cubic yards of soil, which would violate Document 01010-

This Print Covers Calendar Item No. 5A

1.3 "Hazardous or Contaminated Soils" and the Maher Ordinance. As a result, the Port required the Contractor to stop work pending resolution of the Maher Ordinance issue.

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The Port's subsequent investigation of the situation revealed that the Port's initial direction to the Department of Public Works, designers for the roadway, limited the excavation to 50 cubic yards ("CY"). The 50 CY limitation was incorporated into the design by DPW until the Port later directed DPW to lower the road profile to conform the new road design to the elevations of proposed improvements on adjacent properties. Based on discussions with the project team, it appears that the DPW engineer's understood that the Maher Ordinance would only be triggered if there was over 50 CY **net** material excavation. Also DPW understood that the excavated materials could be moved within the site and used for fill. The final calculations indicated more fill than cut, so the designers concluded that there was **no** net material excavation. Unfortunately, the review team found that the Maher Ordinance requirements apply when more than 50 CYs are disturbed. This project exceeded that limit and, therefore, required a Maher study.

Port staff requested that DPW redesign the roadway to limit excavation and to add several items into the project. The added items include:

- A drainage system consisting of a new concrete apron at the junction of the new road and existing Amador Street, culverts and inlets;
- Raising the roadway elevation to match existing conditions and match existing elevations for tenant access, and
- Decreasing the steep grade at touchdown of roadway in Pier 94.

Port Staff also determined that Deductive Alternate 1, the access road to the future site of the Pier 94 Wetlands area was not required and would be deleted from the project.

The Contractor received the updated contract drawings in May 2005 and returned a price proposal for the revised contract on August 4, 2005. The Resident Engineer and the Contractor met and negotiated a final price for the contract on August 19, 2005.

REQUIRED CONTRACT CHANGE ORDER

The changes to the contract require issuance of a formal contract Change Order. Change Order No. 1 will include the following items:

- Execution of Deductive Alternate Bid Item No. 1 to delete the access road to the future site of the Pier 94 Wetlands. This deduction will result in a credit to the Port in the amount of \$40,000.
- Contractor compensation for items not originally included in contract and added to the Work, such as, addition of drainage system consisting of pipe culverts and inlets along the roadway. These items amount to additional compensation in the amount of \$24,159.20.
- Contractor compensation for costs related to mobilization efforts, overhead, re-work of partially completed items, and unforeseen delays of 295 days valued at \$74,365.90

- Increase duration of contract to accommodate an additional 40 days after date of issuance of Change Order. By summation, the total increase to the contract duration is 335 days (295 + 40 = 335 days).

Staff and the contractor have negotiated the final price and agreement to proceed with the Work beginning on September 13, 2005, as summarized below.

Total Additional Negotiated Cost:	\$98,525.10
Credit to Port for Deductive Alternate Bid Item No. 1:	<u>(\$40,000.00)</u>
Value of Change Order and increase in Contract Amount:	\$58,525.10
Original Contract Award Amount	<u>\$399,150.00</u>
Total Increased Contract Amount	\$457,675.10

Most of this overrun will be funded from the Amador Street Roadway Project, CPO763, with any shortfall funding, approximately \$20,000.00, provided from GPO543, Facility Maintenance and Repair.

SUMMARY

Port Staff recommends that the Commission approve Change Order No. 1 to Contract No. 2693 to Gordon N. Ball, Inc. in the amount of \$58,525.10 for a total revised Contract Sum of \$457,675.10 and an increase in contract duration by 335 days. Completion will occur by October 24, 2005.

Prepared by: Bradley J. Wilson, P.E.
Resident Engineer

For: Edward F. Byrne,
Chief Harbor Engineer

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 05-61

- WHEREAS, The Port Commission authorized award of Contract No. 2693 to Gordon N. Ball, Inc. by Resolution No. 04-78 on September 9, 2004; and
- WHEREAS, Following award and commencement of work in the field, the contractor reported differing site conditions that triggered additional studies, requiring the Port to stop the work and revise the contract documents; and
- WHEREAS, The Port found certain errors in the original design assumptions that require a revised design that increase the scope of work to include additional civil excavation and fill plus a new concrete apron, culverts and inlets; and
- WHEREAS, Staff concluded that construction of an access road to the future site of the Pier 94 wetlands is not required at this time and Deductive Alternate Bid Item No.1 will therefore be executed to provide an additional \$40,000.00 to offset a portion of the increased costs; and
- WHEREAS, The Contractor incurred certain delay costs due to additional mobilization, demobilization, re-work of completed items, and extended overhead; and
- WHEREAS, To accommodate these delays, modifications, and addition of work items to the original contract, the contract duration must be increased by 335 days; and
- WHEREAS, An additional \$58,525.10 of Port Capital funds will be utilized for this contract to accomplish these changes, additions, and delays resulting from the revision of the design and contract scope; now therefore, be it
- RESOLVED, That the Port Commission hereby authorizes Staff to increase the amount of Contract No. 2693 to \$457,675.10 and to extend the Contract Substantial Completion date by 335 calendar days, resolving all current additional work, delay, and cost claims on the Project, and be it further
- RESOLVED, That the Commission authorize the Executive Director to accept the work once it is complete.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 13, 2005.

Secretary



MEMORANDUM

September 8, 2005

TO: MEMBERS, PORT COMMISSION

Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation on the "Findings of Fiscal Responsibility and Feasibility Ordinance" and recent amendments thereto (San Francisco Administrative Code, Chapter 29).

DIRECTOR'S RECOMMENDATIONS: Informational Only – No Action Required

In June 2004 the "Findings of Fiscal Responsibility and Feasibility" Ordinance (referred to in this Memorandum as the "fiscal feasibility ordinance") was passed by the Board of Supervisors (San Francisco Administrative Code, Chapter 29 – Attachment 1). This fiscal feasibility ordinance was amended in July 2005. Because the fiscal feasibility ordinance – as amended - impacts Port projects, this Staff Report was prepared to summarize the basic requirements of the legislation.

Chapter 29 requires that certain City projects be subject to a fiscal feasibility review at the Board of Supervisors before the City Planning Department may begin California Environmental Quality Act (CEQA) review of the project. The fiscal feasibility ordinance applies to projects proposed by the City for which:

1. The implementation and construction cost exceeds \$25 million; and
2. The project sponsor reasonably estimates that, at the time of filing an application for CEQA review, a portion of the predevelopment, planning or construction costs in excess of \$1 million (excluding City personnel costs) will be paid from public monies.

The term "public monies" originally was defined in the fiscal feasibility ordinance as monies from the General Fund or funds otherwise held by a City department; monies borrowed by the City, including revenue bonds, lease revenue bonds or certificates of participation; or federal or state grants or loans.

This Print Covers Calendar Item No. 6A

On July 12, 2005, the Board of Supervisors passed an ordinance amending Sections 29.1, 29.3 and 29.7 (Attachment 2) of the fiscal feasibility ordinance to, among other things, exempt certain voter-approved projects from the fiscal feasibility ordinance; include rent credits as "public monies" for purposes of the fiscal feasibility ordinance; require additional information from applicants for environmental review; suspend application of the fiscal feasibility ordinance to certain projects undergoing environmental review; and bar City departments from extending current exclusive right to negotiate agreements until fiscal feasibility review has been successfully completed.

For the Port, a significant provision of the amended fiscal feasibility ordinance is the inclusion of rent credits in the definition of public monies. "Rent credits" are defined in the amended fiscal feasibility ordinance as "rent obligations that are reduced, waived or forgiven by the City under a lease for real property, including the fair market value of any free rent period under the lease." Because of this amendment, certain Port-sponsored projects are now subject to the fiscal feasibility ordinance.

For Port projects subject to the fiscal feasibility ordinance, the Port – as project sponsor - must submit to the Board of Supervisors:

1. A proposed resolution finding the project fiscally feasible and responsible; and
2. A report providing information about the project, including, but not limited to, a general description of the project, its purpose, a fiscal plan describing estimated costs and all known and potentially available funding sources. In addition, the report for any project for which CEQA review had begun on or before July 1, 2005, must include costs incurred for the CEQA review and other costs incurred to date.

The criteria that the Board may consider when it evaluates a project's fiscal feasibility are:

1. Direct and indirect financial benefits of the project to the City, including to the extent applicable cost savings or new revenues, including tax revenues, generated by the proposed project;
2. The cost of construction;
3. Available funding for the project;
4. The long term operating and maintenance costs of the project; and
5. The debt load to be carried by the City department or agency.

In addition, the Board may consider other criteria that might be useful in evaluating the project's fiscal feasibility.

For new projects, the project sponsor must obtain a determination that a project is fiscally feasible and responsible before a CEQA application is submitted to the Planning Department. For projects already under CEQA review, a proposed resolution and a fiscal feasibility report must be submitted to the Board of Supervisors by September 28, 2005 (30 days after the effective date of the amended ordinance) or else the Planning Department will suspend CEQA review of the project until the proposed resolution and the fiscal feasibility report are submitted.

Upon receipt, the proposed resolution and fiscal feasibility report are referred to the Board committee responsible for review of fiscal measures. In evaluating the fiscal feasibility of a proposed project, the Board may request assistance from the Budget Analyst or the Controller. The fiscal feasibility ordinance requires the Board to act as expeditiously as possible, and to hold a public hearing within 90 days following introduction of the proposed resolution at the Board. However, the Board may continue its consideration of the proposal in order to receive additional information from the Budget Analyst or Controller, or to further consider the proposal. The Board's failure to hold a public hearing within the 90-day period is not deemed to constitute a determination that the project is fiscally feasible and responsible.

Because of the recent amendment to the fiscal feasibility ordinance, the Port must submit to the Board of Supervisors a proposed resolution and fiscal feasibility report for the Piers 27-31 Mixed Use Recreation Project by September 28, 2005, or the City Planning Commission will be required to suspend its environmental review of the project. No other existing Port-sponsored projects appear to be affected by the amendment. However, for any new Port projects that involve rents credits (as defined in the amendment) in excess of \$1 million, the Port will need to obtain a Board of Supervisors' determination that the project is fiscally feasible and responsible before the City Planning Department can process an application for CEQA environmental review.

STAFF RECOMMENDATION

There is no Staff Recommendation as this is an Informational Item.

Prepared by: Lynda Swanson
Planning & Development

CHAPTER 29

FINDINGS OF FISCAL RESPONSIBILITY AND FEASIBILITY

- Sec. 29.1. Applicability of this Chapter 29.
- Sec. 29.2. Board of Supervisors Determination.
- Sec. 29.3. Information to be Submitted to the Board of Supervisors.
- Sec. 29.4. Board of Supervisors Procedures for Determination.
- Sec. 29.5. Processing of Environmental Review Application.
- Sec. 29.6. Resubmittal of Project.
- Sec. 29.7. Applicability of this Chapter to On-Going Environmental Review.
- Sec. 29.8. Severability.

SEC. 29.1. APPLICABILITY OF THIS CHAPTER 29.

(a) This Chapter 29 shall be applicable to any project, as defined by the California Environmental Quality Act, Public Resources Code Sections 21000 and following, as amended; and Guidelines for Implementation of the California Environmental Quality Act, as amended, appearing as Title 14, Division 6, Chapter 3 of the California Code of Regulations (hereinafter referred to collectively as CEQA), that is proposed by an office, board, department, commission or other unit of government of the City and County and meets both of the following criteria:

(1) the cost of implementing and/or constructing the proposed project exceeds twenty-five million dollars (\$25,000,000.00), and

(2) A portion of the predevelopment, planning or construction costs of the project in excess of \$1,000,000.00, but excluding the costs of City personnel working on such project, will be paid from public monies. For purposes of this Chapter 29, "public monies" shall mean (i) funds from the City's General Fund or funds otherwise held by any Department of the City, (ii) the proceeds of any indebtedness of the City, including without limitation revenue bonds, lease revenue bonds or certificates of participation secured by the City's General Fund or funds otherwise held by any City department, or (iii) federal or state grants or loans.

(b) Notwithstanding Subsection 29.1(a), no provision of this Chapter 29 shall be interpreted to grant the Board of Supervisors broader powers to set policy for a project proposed by an office, board, department, commission or other unit of government of the City and County than is granted by the City Charter or applicable state or federal law and proposed projects shall not be subject to the determination by the Board of Supervisors provided for by this Chapter 29 where the City Charter or applicable state or federal law precludes such a determination by the Board of Supervisors.

(c) Notwithstanding anything to the contrary in this Chapter 29, this Chapter 29 shall not apply to the following projects:

San Francisco Administrative Code

(1) Any project where more than seventy-five percent (75%) of the amount of public monies for the project will be financed with proceeds from a bond measure that the Board of Supervisors has submitted for approval to the voters and which has been approved by the voters; or

(2) Any project that is the subject of a term sheet (or similar summary of key terms and conditions) or an exclusive negotiating agreement (or similar agreement setting for a schedule and terms for proceedings towards final transactional documents), approved or endorsed by the Board of Supervisors on or after January 1, 2003 but before July 1, 2004, or that has otherwise been approved or endorsed by the Board of Supervisors during such time period, provided however, that if the Board of Supervisors subsequently elects to withdraw such endorsement or approval, this exemption shall not apply and such project shall be subject to the terms of this ordinance to the extent otherwise applicable; or

(3) Any project where funds allocated or granted by the San Francisco County Transportation Authority ("SFCTA"), or other funds secured by or requiring contribution of matching or leveraged SFCTA funds, comprise more than seventy-five percent (75%) of the public monies for the project, provided that the SFCTA has reviewed and approved the plans or projects to be financed with such funds from the SFCTA; or

(4) Any project that is a utility capital improvement project under the jurisdiction of the San Francisco Public Utilities Commission. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.2. BOARD OF SUPERVISORS DETERMINATION.

(a) Prior to submittal to the Planning Department of an environmental evaluation application under San Francisco Administrative Code Chapter 31 and CEQA, the office, board, department, commission or other unit of government of the City and County proposing a project (the "Project Sponsor") shall seek and procure a Board of Supervisors determination that the plan for undertaking and implementing the project is fiscally feasible and responsible, as set forth in this Chapter 29. The Board shall consider the fiscal feasibility of the project, using the following criteria when it evaluates a project's fiscal feasibility: (1) direct and indirect financial benefits of the project to the City, including to the extent applicable costs savings or new revenues, including tax revenues, generated by the proposed project; (2) the cost of construction; (3) available funding for the project; (4) the long term operating and maintenance costs of the project; and (5) debt load to be carried by the City department or agency. The Board may consider other criteria that may be useful in evaluating a project's fiscal feasibility.

(b) A determination by the Board that the plan for implementing and undertaking the project is fiscally feasible and responsible shall not include a determination as to whether the Project Sponsor or other unit of the government of the City and County should approve the project and it is the intent of the Board of Supervisors in requiring the determination to decide only whether the proposed project merits further evaluation and environmental review. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.3. INFORMATION TO BE SUBMITTED TO THE BOARD OF SUPERVISORS.

The Project Sponsor shall submit to the Board of Supervisors the following documents and information concerning the proposed project:

(1) A proposed resolution for consideration and adoption by the Board of Supervisors finding the plan to undertake and implement the proposed project fiscally feasible. The Mayor, Director of a Project Sponsor department, or an individual Supervisor may introduce the resolution at the Board of

Supervisors.

(2) The Project Sponsor shall provide information about the proposed project, including but not limited to, a general description of the project, the general purpose of the project, and a fiscal plan describing the estimated cost and all known and potential available funding sources for the project. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.4. BOARD OF SUPERVISORS PROCEDURES FOR DETERMINATION.

(a) The Board of Supervisors, in accordance with its rules of order, shall refer the proposed resolution and information to the Board committee responsible for review of fiscal measures, such as appropriation ordinances, bond issues, taxes, fees and other revenue measures.

(b) In evaluating the fiscal feasibility of the proposed project, the Board may request assistance from the Budget Analyst or the Controller. The Project Sponsor may submit additional information to the Board. Based upon the criteria set forth in Section 29.2, the Board shall determine whether the project is fiscally feasible and responsible. The Board shall act by resolution by a majority vote of all its members.

(c) The Board shall act as expeditiously as possible, and shall hold a public hearing regarding the fiscal feasibility of a proposed project within ninety (90) days following introduction of the resolution at the Board of Supervisors. The Board may continue its consideration of the proposal in order to receive more information from the Budget Analyst or the Controller or to further consider the proposal. Failure of the Board to hold a public hearing within such 90 day period shall not be deemed to constitute a determination that the project is fiscally feasible and responsible. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.5. PROCESSING OF ENVIRON- MENTAL REVIEW APPLICATION.

(a) In the event the Board of Supervisors determines that the proposed project is fiscally feasible and responsible, the Project Sponsor may file an environmental evaluation application with the Planning Department and may undertake environmental review of the proposed project as required by CEQA and Administrative Code Chapter 31.

(b) In the event the Board of Supervisors determines that the proposed project is not fiscally feasible, the Project Sponsor shall not undertake environmental review of the proposed project and the Planning Department shall not commence environmental review of the proposed project, including the necessary scoping, technical studies, and preparation of environmental documents.

(c) An environmental evaluation application for a project subject to this Chapter 229 shall not be deemed complete, and the Planning Department shall not undertake environmental review of a project, unless a copy of the Board of Supervisors Resolution finding the proposed project fiscally feasible and responsible is submitted to the Planning Department. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.6. RESUBMITTAL OF PROJECT.

The Project Sponsor may revise or modify the proposed project and may submit it again to the Board of Supervisors for consideration pursuant to this Chapter 29 no earlier than three (3) months following a determination by this Board that the proposed project is not fiscally feasible and responsible. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.7. APPLICABILITY OF THIS CHAPTER TO ON-GOING ENVIRONMENTAL REVIEW.

This Chapter 29 shall apply to any proposed project that has not completed environmental review pursuant to the California Environmental Quality Act as of January 27, 2004. In the event environmental review has commenced for a proposed project, the Planning Department shall suspend its environmental review of the project until the Board of Supervisors has determined that the proposed project is fiscally feasible as set forth in this Chapter 29, provided that the Planning Department shall not suspend its environmental review of the project if such suspension would lead to a violation of the time frames for environmental review set forth in CEQA or if such suspension would substantially or impermissibly impair existing contractual obligations of the City or any of its departments; and provided further that for projects for which the Planning Department has not completed environmental review prior to January 27, 2004 based on an environmental evaluation application filed by a person or entity other than a city department, the planning department shall not suspend its environmental review for up to ninety (90) days following the effective date of this ordinance or unless and until the Board determines that the project is fiscally infeasible as set forth in this Chapter 29, whichever occurs earlier. Notwithstanding any other provision in this subsection 29.7, Chapter 29 shall not apply to any project that includes affordable housing funded in whole or in part through the Mayor's Office of Housing ("MOH"), where the environmental evaluation application for such project was filed prior to January 27, 2004 and where some or all of the MOH funds have been advanced to the project prior to the Effective Date of this Chapter 29. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)

SEC. 29.8. SEVERABILITY.

If any Section, paragraph, sentence, clause or phrase of this Chapter 29 is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter 29. The Board of Supervisors declares that it would have passed each section, paragraph, sentence, clause or phrase of this Chapter 29 irrespective of the fact that any portion of this Chapter 29 could be declared unconstitutional, invalid or ineffective. (Added by Ord. 104-04, File No. 040146, App. 6/4/2004)



Attachment 2

City and County of San Francisco

Tails

Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 050817

Date Passed:

Ordinance amending the San Francisco Administrative Code by amending Sections 29.1, 29.3, and 29.7, to include rent credits as "public monies" for purposes of the Fiscal Feasibility Ordinance; require additional information from applicants for environmental review; suspend application to certain projects undergoing environmental review, and, bar City departments from extending current Exclusive Right to Negotiate agreements until fiscal feasibility review has been successfully completed.

June 21, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 7 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Mirkarimi, Peskin, Sandoval
Absent: 3 - Daly, Ma, McGoldrick
Excused: 1 - Maxwell

June 28, 2005 Board of Supervisors — AMENDED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

June 28, 2005 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
Mirkarimi, Peskin, Sandoval
Absent: 1 - McGoldrick

July 12, 2005 Board of Supervisors — AMENDED

Ayes: 7 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Mirkarimi, Peskin
Absent: 3 - Ma, Maxwell, Sandoval
Excused: 1 - McGoldrick

July 12, 2005 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 6 - Alioto-Pier, Ammiano, Daly, Dufty, Mirkarimi, Peskin
Noes: 1 - Elsbernd
Absent: 3 - Ma, Maxwell, Sandoval
Excused: 1 - McGoldrick

July 19, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, Mirkarimi, Peskin,
Sandoval
Noes: 1 - Elsbernd
Excused: 1 - McGoldrick

File No. 050817

I hereby certify that the foregoing Ordinance
was FINALLY PASSED on July 19, 2005 by
the Board of Supervisors of the City and
County of San Francisco.

JUL 19 2005

Date Approved

Ray Gulberg

Gloria L. Young
Clerk of the Board

[Signature]
Mayor Gavin Newsom

[Designating rent credits as "public monies" for purposes of Fiscal Feasibility Ordinance.]

Ordinance amending the San Francisco Administrative Code by amending Sections 29.1, 29.3, 29.4, and 29.7, to: exempt certain voter-approved projects from the Fiscal Feasibility Ordinance; include rent credits as "public monies" for purposes of the Ordinance; require additional information from applicants for environmental review; ~~set a deadline for Board action; and,~~ suspend application to certain projects undergoing environmental review, and, bar City departments from extending current Exclusive Right to Negotiate agreements until fiscal feasibility review has been successfully completed.

Note: Additions are single-underline italics Times New Roman;
deletions are ~~strikethrough italics Times New Roman~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by amending Sections 29.1, 29.3, 29.4, and 29.7, to read as follows:

SEC. 29.1. APPLICABILITY OF THIS CHAPTER 29.

(a) This Chapter 29 shall be applicable to any project, as defined by the California Environmental Quality Act, Public Resources Code Sections 21000 and following, as amended; and Guidelines for Implementation of the California Environmental Quality Act, as amended, appearing as Title 14, Division 6, Chapter 3 of the California Code of Regulations (hereinafter referred to collectively as CEQA), that is proposed by and under the jurisdiction of an office, board, department, commission or other unit of government of the City and County and meets both of the following criteria:

Supervisor Peskin , Maxwell, Alioto-Pier, Mirkarimi
BOARD OF SUPERVISORS

1 (1) the cost of implementing and/or constructing the proposed project exceeds
2 twenty-five million dollars (\$25,000,000.00), and

3 (2) The Project Sponsor reasonably estimates at the time of filing the application for
4 environmental review that a A portion of the predevelopment, planning or construction costs of
5 the proposed project in excess of \$1,000,000.00, but excluding the costs of City personnel
6 working on such project, will be paid from public monies. For purposes of this Chapter 29,
7 "public monies" shall mean (i) funds from the City's General Fund or funds otherwise held by
8 any Department of the City, (ii) the proceeds of any indebtedness of the City, including without
9 limitation revenue bonds, lease revenue bonds or certificates of participation secured by the
10 City's General Fund or funds otherwise held by any City department, ~~or~~ (iii) federal or state
11 grants or loans to, from, or through a City department, entity, or agency, or (iv) rent obligations that
12 are reduced, waived or forgiven by the City under a lease for real property, including the fair market
13 value of any free rent period under the lease. Revenues from tax increment financing shall not be
14 considered "public monies" for these purposes.

15 (b) Notwithstanding Subsection 29.1(a), no provision of this Chapter 29 shall be
16 interpreted to grant the Board of Supervisors broader powers to set policy for a project
17 proposed by an office, board, department, commission or other unit of government of the City
18 and County than is granted by the City Charter or applicable state or federal law and
19 proposed projects shall not be subject to the determination by the Board of Supervisors
20 provided for by this Chapter 29 where the City Charter or applicable state or federal law
21 precludes such a determination by the Board of Supervisors.

22 (c) Notwithstanding anything to the contrary in this Chapter 29, this Chapter 29 shall
23 not apply to the following projects:
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1 (1) Any project which has been specifically approved by the voters prior to January
2 1, 1998 or where more than seventy-five percent (75%) of the amount of public monies for the
3 project will be financed with proceeds from a bond measure that the Board of Supervisors has
4 submitted for approval to the voters and which has been approved by the voters; or

5 (2) Any project that is the subject of a term sheet (or similar summary of key terms
6 and conditions) or an exclusive negotiating agreement (or similar agreement setting for a
7 schedule and terms for proceedings towards final transactional documents), approved or
8 endorsed by the Board of Supervisors on or after January 1, 2003 but before July 1, 2004, or
9 that has otherwise been approved or endorsed by the Board of Supervisors during such time
10 period, provided however, that if the Board of Supervisors subsequently elects to withdraw
11 such endorsement or approval, this exemption shall not apply and such project shall be
12 subject to the terms of this ordinance to the extent otherwise applicable; or

13 (3) Any project where funds allocated or granted by the San Francisco County
14 Transportation Authority ("SFCTA"), or other funds secured by or requiring contribution of
15 matching or leveraged SFCTA funds, comprise more than seventy-five percent (75%) of the
16 public monies for the project, provided that the SFCTA has reviewed and approved the plans
17 or projects to be financed with such funds from the SFCTA; or

18 (4) Any project that is a utility capital improvement project under the jurisdiction of
19 the San Francisco Public Utilities Commission.

20
21 **SEC. 29.3. INFORMATION TO BE SUBMITTED TO THE BOARD OF SUPERVISORS.**

22 The Project Sponsor shall submit to the Board of Supervisors the following documents
23 and information concerning the proposed project:
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1 (1) A proposed resolution for consideration and adoption by the Board of
2 Supervisors finding the plan to undertake and implement the proposed project fiscally
3 feasible. The Mayor, Director of a Project Sponsor department, or an individual Supervisor
4 may introduce the resolution at the Board of Supervisors.

5 (2) The Project Sponsor shall provide information about the proposed project,
6 including but not limited to, a general description of the project, the general purpose of the
7 project, and a fiscal plan describing the estimated cost and all known and potential available
8 funding sources for the project. If environmental review already has commenced for a proposed
9 project on July 1, 2005, the applicant for environmental review shall also identify costs it has
10 incurred for environmental review of the project so far, as well as any other costs it has incurred to
11 date.

12
13 **SEC. 29.7. APPLICABILITY OF THIS CHAPTER TO ON-GOING ENVIRONMENTAL**
14 **REVIEW.**

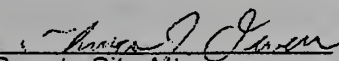
15 (a) This Chapter 29 shall apply to any proposed project that has not completed
16 environmental review pursuant to the California Environmental Quality Act as of January 27,
17 2004. In the event environmental review has commenced for a proposed project, the
18 Planning Department shall not suspend its environmental review of the project, provided that
19 the Project Sponsor submits to the Board of Supervisors, within thirty (30) days of the effective date of
20 this amended ordinance no. _____, the materials required by Section 29.3 for a
21 determination of fiscal feasibility. If a Project Sponsor does not submit the required information within
22 the 30-day period, the Planning Department shall suspend its environmental review of the project until
23 such materials are submitted to the Board of Supervisors. until the Board of Supervisors has
24 determined that the proposed project is fiscally feasible as set forth in this Chapter 29, provided that
25

1 ~~the Planning Department shall not suspend its environmental review of the project if such suspension~~
2 ~~would lead to a violation of the time frames for environmental review set forth in CEQA or if such~~
3 ~~suspension would substantially or impermissibly impair existing contractual obligations of the City or~~
4 ~~any of its departments; and provided further that for projects for which the Planning Department has~~
5 ~~not completed environmental review prior to January 27, 2004 based on an environmental evaluation~~
6 ~~application filed by a person or entity other than a city department, the planning department shall not~~
7 ~~suspend its environmental review for up to ninety (90) days following the effective date of this~~
8 ~~ordinance or unless and until the Board determines that the project is fiscally infeasible as set forth in~~
9 ~~this Chapter 29, whichever occurs earlier.~~ Notwithstanding any other provision in this subsection
10 29.7, Chapter 29 shall not apply to any project that includes affordable housing funded in
11 whole or in part through the Mayor's Office of Housing ("MOH"), where the environmental
12 evaluation application for such project was filed prior to January 27, 2004 and where some or
13 all of the MOH funds have been advanced to the project prior to the Effective Date of this
14 Chapter 29.

15 (b) No City department or agency shall take any action to extend an existing exclusive
16 negotiating agreement or similar agreement that has been entered into prior to the effective
17 date of this ordinance for a project subject to this Section until the Board of Supervisors has
18 determined that the project is fiscally feasible and responsible under this Chapter.
19
20

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:


24 Deputy City Attorney
25

Supervisor Peskin
BOARD OF SUPERVISORS



MEMORANDUM

September 8, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique A. Moyer
Executive Director *Monique Moyer*

SUBJECT: Informational Presentation Pertaining to the Amendment to the California Government Code Authorizing Public Trust Grantee to Form Infrastructure Financing Districts Pursuant to Section 53395 et seq.

DIRECTOR'S RECOMMENDATION: Informational Only – No Action Required

BACKGROUND

On February 17, 2005, the Port Commission authorized staff to coordinate with the Mayor's Office and the City's State legislative representatives to seek an amendment to the California Government Code authorizing public trust grantees to form Infrastructure Financing Districts (IFDs) pursuant to Section 53395 et seq and/or to pursue similar changes to state law that will further the Port's ability to obtain tax increment to finance the development of mixed-use opportunity areas identified in the Waterfront Land Use Plan. Accordingly, staff collaborated with the Mayor's Office on state legislation which would assure that IFDs are applicable to public trust land and the Port. This effort led to the introduction of State Senate Bill 1085 by San Francisco representative Carole Migden on behalf of the City and the Port.

In August 2005, SB 1085 was approved by both Houses of the State Legislature and forwarded to Governor Schwarzenegger for his consideration. The Governor signed SB 1085 on September 5, 2005. The original legislation and the amendment (SB 1085) are attached. The purpose of the informational presentation is to discuss the details of the IFD program and its application to Port property in the Southern Waterfront.

This Print Covers Calendar Item No. 6B

INFRASTRUCTURE FINANCING DISTRICTS

IFDs are authorized under CA Govt. Code sec. 53395 et seq (the “IFD Law”). The IFD Law currently allows public agencies, including the City, to finance public infrastructure improvements by capturing and bonding against tax increment generated in the district after it is established. To do so, the public agency must follow a multi-step process.

First, the legislative body of the public agency must approve a resolution of intent to form the district. The public agency must then prepare and distribute a proposed infrastructure financing plan, which must include, among other things, a description of the infrastructure, a limit on the tax increment to be used and an analysis of fiscal impact. The legislative body must then adopt a resolution approving the proposed infrastructure financing plan, but only after the affected taxing agencies have approved the plan.

As with the formation of Community Facility Districts under the Mello-Roos Law, the *landowners* in the district then must approve, by a two-thirds vote, the establishment of the IFD (or if there are more than 12 registered voters in the proposed IFD, then the *voters* in the proposed district must approve it by a two-thirds vote). Finally, if two-thirds of the landowners or voters approve the formation of the IFD, the legislative body of the public agency must adopt an ordinance to approve the formation of the district and its financing plan. Before considering approval of the district, the public agency must perform any required environmental review under CEQA.

IFDs function much like redevelopment project areas. In this regard, IFDs do not, on their own, involve tax increases. In contrast to redevelopment law, the IFD Law does not require the public agency to make a finding of blight or require a set aside of a portion of the tax increment for affordable housing (except when the projects to be financed through the IFD displace housing). Unlike redevelopment, adoption of an IFD does not affect the land use requirements or zoning designations for the area.

The IFD Law currently contemplates that the property in the district be privately owned and predominantly undeveloped. It also limits the capture of tax increment to 30 years, while redevelopment law allows for a longer capture if necessary to sell the bonds or make the financing plan feasible.

Accordingly, SB 1085 includes changes to the IFD Law that:

- Clarify that a public agency may form such districts to finance public infrastructure where all of the property in the district is publicly-owned, and that the process for forming the district in such an instance is the adoption of an ordinance of the legislative body for such agency;
- Clarify that publicly-owned property subject to tidelands trust for commerce, navigation and fisheries (the “public trust”), including filled tidelands, may be included in such districts;

- Enumerate additional examples of infrastructure improvements that qualify for infrastructure financing districts, including seismic upgrades, historic renovation, environmental remediation, utility improvements, structural repair or construction of seawalls, piers, and wharves;
- Establish a base year and authorize capture of tax increment up to ten years beyond the initial 30-year term of a district; and
- Authorize the use of such districts for urban waterfront areas in addition to undeveloped or underdeveloped areas.

Prepared by: Byron Rhett, Deputy Director
Planning & Development

ORIGINAL SB 1085 LEGISLATION

GOVERNMENT CODE

SECTION 53395-53395.8

53395. (a) The Legislature finds and declares that the state and federal governments have withdrawn in whole or in part from their former role in financing major, regional, or communitywide infrastructure, including highways and interchanges, sewage treatment and water reclamation works, water supply and treatment works, flood control and drainage works, schools, libraries, parks, parking facilities, open space, and seismic retrofit and rehabilitation of public facilities.

(b) The Legislature further finds and declares that the methods available to local agencies to finance public works often place an undue and unfair burden on buyers of new homes, especially for public works that benefit the broader community.

(c) The Legislature further finds and declares that the absence of practical and equitable methods for financing both regional and local public works leads to a declining standard of public works, a reduced quality of life and decreased safety for affected citizens, increased objection to otherwise desirable development, and excessive costs for homebuyers.

(d) The Legislature further finds and declares that it is equitable and in the public interest to provide alternative procedures for financing public works and services needed to meet the needs of new housing and other development projects.

53395.1. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) "City" means a city, a county, or a city and county.

(c) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Designated official" means the city engineer or other appropriate official designated pursuant to Section 53395.13.

(e) "District" means an infrastructure financing district.

(f) "Infrastructure financing district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

(g) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this

chapter.

(h) "Legislative body" means the city council or board of supervisors.

53395.2. (a) The revenues available pursuant to Article 3 (commencing with Section 53396) may be used directly for work allowed pursuant to Section 53395.3, may be accumulated for a period not to exceed five years to provide a fund for that work, may be pledged to pay the principal of, and interest on, bonds issued pursuant to Article 4 (commencing with Section 53397), or may be pledged to pay the principal of, and interest on, bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311)), the proceeds of which have been or will be used entirely for allowable purposes of the district. The revenue of the district may also be advanced for allowable purposes of the district to an Integrated Financing District established pursuant to Chapter 1.5 (commencing with Section 53175), in which case the district may be party to a reimbursement agreement established pursuant to that chapter. The revenues of the district may also be committed to paying for any completed public facility acquired pursuant to Section 53395.3 over a period of time, including the payment of a rate of interest not to exceed the bond buyer index rate on the day that the agreement to repay is entered into by the city.

(b) The legislative body may enter into an agreement with any affected taxing entity providing for the construction of, or assistance in, financing public facilities.

53395.3. (a) A district may finance (1) the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer which satisfies the requirements of subdivision (b), (2) may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of that property and (3) the costs described in Sections 53395.5, and 53396.5. A district may only finance the purchase of facilities for which construction has been completed, as determined by the legislative body. The facilities need not be physically located within the boundaries of the district. A district may not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities of communitywide significance, which provide significant benefits to an area larger than the area of the district, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(c) Any district which constructs dwelling units shall set aside not less than 20 percent of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, to persons and families of low- and moderate-income, as defined in Section 50093 of the Health and Safety Code.

53395.4. (a) A district may not include any portion of a redevelopment project area which is or has been previously created pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, whether the creation is or was proper or improper. A redevelopment project area may not include any portion of a district created pursuant to this chapter.

(b) A district may finance only the facilities or services authorized in this chapter to the extent that the facilities or services are in addition to those provided in the territory of the district before the district was created. The additional facilities or services may not supplant facilities or services already available within that territory when the district was created but may supplement those facilities and services as needed to serve new developments.

(c) A district may include areas which are not contiguous.

53395.5. It is the intent of the Legislature that the area of the districts created be substantially undeveloped, and the establishment of a district should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, the legislative body shall do all of the following:

(a) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed were inhabited by persons or families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(b) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons of low or moderate income, a number of dwelling units which is at least one unit but not less than 20 percent of the total dwelling units removed at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) Provide relocation assistance and make all the payments required by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, to persons displaced by any public or private development occurring within the territory of the district. This displacement shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units

occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

53395.6. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing plan, including a division of taxes thereunder, or an election pursuant to this chapter shall be commenced within 30 days after the enactment of the ordinance creating the district pursuant to Section 53395.23. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply.

53395.7. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to Section 53397.6 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

53395.8. An infrastructure financing district is a "district" within the meaning of Section 1 of Article XIII A of the California Constitution.

GOVERNMENT CODE

SECTION 53395.10-53395.9

53395.10. A legislative body of a city may designate one or more proposed infrastructure financing districts pursuant to this chapter.

Proceedings for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the proposed district and shall do all of the following:

(a) State that an infrastructure financing district is proposed to be established under the terms of this chapter and describe the boundaries of the proposed district, which may be accomplished by reference to a map on file in the office of the clerk of the city.

(b) State the type of public facilities proposed to be financed by the district. The district may only finance public facilities authorized by Section 53395.3.

(c) State that incremental property tax revenue from the city and some or all affected taxing entities within the district may be used to finance these public facilities.

(d) Fix a time and place for a public hearing on the proposal.

53395.11. The legislative body shall direct the clerk to mail a copy of the resolution of intention to create the district to each owner of land within the district.

53395.12. The legislative body shall direct the clerk to mail a copy of the resolution to each affected taxing entity.

53395.13. After adopting the resolution pursuant to Section 53395.10, the legislative body shall designate and direct the city engineer or other appropriate official to prepare an infrastructure plan pursuant to Section 53395.14.

53395.14. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.13 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities required to serve the development proposed in the area of the district including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the public improvements and facilities.

(c) A finding that the public facilities are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes which may be allocated to the district pursuant to the plan.

(5) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than 30 years from the date on which the ordinance forming the district is adopted pursuant to Section 53395.23.

(6) An analysis of the costs to the city of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(e) If any dwelling units occupied by persons or families of low or moderate income are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53395.5.

53395.15. The infrastructure financing plan shall be sent to each owner of land within the proposed district and to each affected taxing entity together with any report required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report shall also be sent to the planning commission and the legislative body.

53395.16. The designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

53395.17. The legislative body shall conduct a public hearing prior to adopting the proposed infrastructure financing plan. The public hearing shall be called no sooner than 60 days after the plan has been sent to each affected taxing entity. In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53395.11 and 53395.12, notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city in which the proposed district is located. The notice shall state that the district will be used to finance public works, briefly describe the public works, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed district and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the legislative body and object to the adoption of the proposed plan by the legislative body.

53395.18. At the hour set in the required notices, the legislative body shall proceed to hear and pass upon all written and oral objections. The hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The legislative body may modify the plan by eliminating or reducing the size and cost of proposed public works, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district.

53395.19. (a) The legislative body shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53396) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53396) has been filed with the legislative body at or prior to the time of the hearing.

(b) Nothing in this section shall be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution proposing formation of the infrastructure financing district without allocation of the tax revenues of any affected taxing entity which has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

53395.20. (a) At the conclusion of the hearing, the legislative body may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the infrastructure financing district in a manner consistent with Section 53395.19, or it may abandon the proceedings. If the legislative body adopts a resolution proposing formation of the district, it shall then submit the proposal to create the district to the qualified electors of the proposed district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates,

contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) If at least 12 persons have been registered to vote within the territory of the proposed district for each of the 90 days preceding the close of the hearing, the vote shall be by the registered voters of the proposed district, who need not necessarily be the same persons, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

53395.21. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

53395.22. (a) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.

(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:

(1) The name of the landowner.

(2) The address of the landowner.

(3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.

(4) The printed name and signature of the voter.

(5) The address of the voter.

(6) The date of signing and place of execution of the declaration pursuant to paragraph (3).

(7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

53395.23. After the canvass of returns of any election pursuant to Section 53395.20, the legislative body may, by ordinance, adopt the infrastructure financing plan and create the district with full force and effect of law, if two-thirds of the votes upon the question of creating the district are in favor of creating the district.

53395.24. After the canvass of returns of any election conducted pursuant to Section 53395.20, the legislative body shall take no further action with respect to the proposed infrastructure financing district for one year from the date of the election if the question of creating the district fails to receive approval by two-thirds of the votes cast upon the question.

53395.25. The legislative body may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of a district to the qualified electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by subdivisions (b) and (c) of Section 7901, except that the change in population may be estimated by the legislative body in the absence of an estimate by the Department of Finance, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year. Any election held pursuant to this section may be combined with any election held pursuant to Section 53395.20 in any convenient manner.

53395.9. (a) The Salton Sea Authority, a joint powers authority formed by the County of Imperial, the County of Riverside, the Coachella Valley Water District, and the Imperial Irrigation District, may use the provisions of this chapter to form an infrastructure financing district for the purpose of funding the construction of, and purchasing electrical power for, projects for the reclamation and environmental restoration of the Salton Sea. To the extent of any conflict, the provisions of this section shall prevail over any other provision of law. Any district formed pursuant to this section shall be known as "The Salton Sea Infrastructure Financing District."

(b) For purposes of this chapter, the Salton Sea Authority is a "city."

(c) The Salton Sea Infrastructure Financing District may exist for up to 40 years from the date of its formation.

(d) No public funds accruing to the Salton Sea Authority pursuant to this section shall be utilized for purposes of treating or making potable, agricultural tailwaters flowing into the Salton Sea.

GOVERNMENT CODE

SECTION 53396-53396.5

53396. Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to Section 53395.23 to create the district, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted pursuant to Section 53395.23 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(b) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city and each affected taxing entity which has agreed to participate pursuant to Section 53395.19 in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

53396.5. All costs incurred by a county in connection with the division of taxes pursuant to Section 53396 for a district shall be paid by that district.

GOVERNMENT CODE

SECTION 53397.1-53397.11

53397.1. The legislative body may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds.

53397.2. The resolution adopted pursuant to Section 53397.1 shall contain all of the following information:

(a) A description of the facilities to be financed with the proceeds of the proposed bond issue.

(b) The estimated cost of the facilities, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

(c) The maximum interest rate and discount on the proposed bond issuance.

(d) The date of the election on the proposed bond issuance and the manner of holding the election.

(e) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

(f) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to subdivision (e).

53397.4. The clerk of the legislative body shall publish the resolution adopted pursuant to Section 53397.1 once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.

If there are no newspapers meeting these criteria, the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.

53397.5. The legislative body shall submit the proposal to issue the bonds to the voters who reside within the district. The election shall be conducted in the same manner as the election to create the district pursuant to Section 53395. 20 and the two elections may be consolidated.

53397.6. (a) The bonds may be issued if two-thirds of the voters voting on the proposition vote in favor of issuing the bonds.

(b) If the voters approve the issuance of the bonds as provided by subdivision (a), the legislative body shall proceed with the issuance of the bonds by adopting a resolution which shall provide for all of the following:

(1) The issuance of the bonds in one or more series.

(2) The principal amount of the bonds, which shall be consistent

with the amount specified in subdivision (b) of Section 53397.2.

- (3) The date the bonds will bear.
- (4) The date of maturity of the bonds.
- (5) The denomination of the bonds.
- (6) The form of the bonds.
- (7) The manner of execution of the bonds.
- (8) The medium of payment in which the bonds are payable.
- (9) The place or manner of payment and any requirements for registration of the bonds.
- (10) The terms of call or redemption, with or without premium.

53397.7. If any proposition submitted to the voters pursuant to this chapter is defeated by the voters, the legislative body shall not submit, or cause to be submitted, a similar proposition to the voters for at least one year after the first election.

53397.8. The legislative body may, by majority vote, provide for refunding of bonds issued pursuant to this chapter. However, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded. The legislative body may not extend the time to maturity of the bonds.

53397.9. The legislative body or any person executing the bonds shall not be personally liable on the bonds by reason of their issuance. The bonds and other obligations of a district issued pursuant to this chapter are not a debt of the city, county, or state or of any of its political subdivisions, other than the district, and none of those entities, other than the district, shall be liable on the bonds and the bonds or obligations shall be payable exclusively from funds or properties of the district. The bonds shall contain a statement to this effect on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

53397.10. The bonds may be sold at discount not to exceed 5 percent of par at public sale. At least five days prior to the sale, notice shall be published, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. The bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

53397.11. If any member of the legislative body whose signature appears on bonds ceases to be a member of the legislative body before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Bonds issued pursuant to this

chapter are fully negotiable.

AMENDED SB 1085 LEGISLATION

**APPROVED BY THE GOVERNOR
SEPTEMBER 6, 2005**

Senate Bill No. 1085

CHAPTER 213

An act to amend Section 53395.1 of, and to repeal and add Section 53395.8 of, the Government Code, relating to infrastructure financing districts.

[Approved by Governor September 6, 2005. Filed with
Secretary of State September 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, Migden. Infrastructure financing districts: public trust lands.

Existing law authorizes the formation by local legislative bodies of infrastructure financing districts, which may include specified types of areas, to incur debt, as defined, or provide for tax increment allocation, to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of specified types of real or tangible property, including specified types of facilities, pursuant to an infrastructure financing plan adopted pursuant to specified procedures.

This bill would include a public agency that owns all the land to be included in a proposed district within the definition of "landowner" for purposes of these provisions.

This bill would, with respect to the City and County of San Francisco, expand the definition of "debt" for these purposes, include environmental remediation and certain types of repairs within those projects that may be financed, include various facilities within those qualifying for financing, and make various conforming changes. It would, with respect to the City and County of San Francisco, include tidelands and submerged lands subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants, among the areas that may be included in an infrastructure financing district and make related changes, would make various changes in the procedures for formation of the district and adoption of an infrastructure financing plan if all the land in the district would be publicly owned, and would authorize the amendment of an infrastructure financing plan to extend time limitations for receipt of property tax increment, subject to specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 53395.1 of the Government Code is amended to read:

53395.1. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) "City" means a city, a county, or a city and county.

(c) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Designated official" means the city engineer or other appropriate official designated pursuant to Section 53395.13.

(e) (1) "District" means an infrastructure financing district.

(2) An infrastructure financing district is a "district" within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) "Infrastructure financing district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

(g) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) "Legislative body" means the city council or board of supervisors.

SEC. 2. Section 53395.8 of the Government Code is repealed.

SEC. 3. Section 53395.8 is added to the Government Code, to read:

53395.8. (a) This section applies only to the City and County of San Francisco. For the purposes of this chapter, the City and County of San Francisco is a city.

(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a single public agency the responsibility to administer waterfront lands in the City and County of San Francisco that are subject to the public trust and the ability to capture property tax increment revenues to finance needed public infrastructure improvements in those areas will further the objectives of the public trust and enjoyment of those trust lands by the people of the state.

(c) Notwithstanding subdivision (c) of Section 53395.1, for the purposes of this section, "debt" includes commercial paper and variable rate demand notes.

(d) In addition to the purposes provided in subdivision (a) of Section 53395.3, a district subject to this section may finance the environmental remediation of any real or tangible property that the district may finance pursuant to Section 53395.3. The district may also finance planning and

design work that is directly related to the improvement, seismic retrofit, or environmental mediation of that property. The district may not finance routine nonstructural repair work.

(e) In addition to the public capital facilities of communitywide significance that a district may finance pursuant to subdivision (b) of Section 53395.3, a district subject to this section may finance all of the following:

(1) Seismic and life-safety improvements to existing buildings and other structures.

(2) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are either eligible for listing on the National Register of Historic Places, both individually or because of their location within an eligible registered historic district, or are locally designated landmarks.

(3) Structural repairs and improvements to piers, seawalls, and wharves.

(4) Remediation of hazardous materials.

(5) Storm water management facilities, other utility infrastructure, or public access improvements.

(f) Notwithstanding Section 53395.4, a district subject to this section may include tidelands and submerged lands, including filled lands, subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants. Where a district includes tidelands and submerged lands, whether filled or unfilled, and finances facilities located on these tidelands and submerged lands, these facilities shall serve and promote uses and purposes consistent with the public trust and applicable statutory trust grants. These facilities shall be public trust assets subject to the administration and control of the legislative trust grantee of the public trust lands on which they are constructed. However, if these facilities are among the public capital facilities listed in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 53395.3 or paragraph (5) of subdivision (e) of this section and are not owned by the public agency administering the public trust lands, but are owned and operated by another entity pursuant to a license from or an agreement with the public agency administering the public trust lands, then these facilities are not required to become public trust assets. The district shall maintain accounting procedures in accordance, and otherwise comply, with Section 6306 of the Public Resources Code.

(g) Notwithstanding Section 53395.5, nothing in this chapter shall prohibit the formation of a district on urban waterfront property, nor the financing of needed public infrastructure projects located on public trust lands, pursuant to this section.

(h) Notwithstanding subdivision (c) of Section 53395.14, infrastructure improvements that increase public access to, or use or enjoyment of, public trust lands pursuant to this section shall be deemed to satisfy the requirements of that subdivision.

(i) Notwithstanding Section 53395.20 or any other provision of law, if all of the land in a district subject to this section would be publicly owned, no election shall be required to form the district, and the legislative body may, by ordinance, adopt the infrastructure financing plan and create the district, upon recommendation of the public agency with jurisdiction over the land.

(j) (1) Notwithstanding any other provision of this chapter, the legislative body may amend an infrastructure financing plan subject to this section to extend the time limitations for receipt of property tax increment beyond the 30-year period from adoption of the ordinance for the district for a period not to exceed 10 years to pay bonded indebtedness, if the district does all of the following:

(A) Includes an amendment, if necessary, to increase the total number of dollars to be allocated to the district.

(B) Prepares an analysis of the projected fiscal impact on each affected taxing entity.

(C) Sets a time and date for a public hearing on the matter.

(2) The amendment to the infrastructure financing plan shall be mailed by the clerk to each affected taxing entity for its review. Each affected taxing entity shall review and consent to or disapprove the amended infrastructure financing plan within 60 days of the receipt thereof.

(k) (1) The legislative body shall hold a public hearing regarding the amendment to the infrastructure financing plan within 60 days after each affected taxing entity has approved the extension.

(2) The public hearing, and notice thereof, shall be conducted in accordance with Sections 53395.17 and 53395.18. At the conclusion of the hearing, the legislative body may adopt an ordinance adopting the infrastructure financing plan, as modified, or it may abandon the proceedings.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City and County of San Francisco. The facts constituting the special circumstances are:

The Port Authority of the City and County of San Francisco administers tidelands along its waterfront where there are neither private landowners nor registered voters. The Port Authority of the City and County of San Francisco wants to establish one or more infrastructure financing districts to finance improvements to those waterfront properties. However, the current law that governs the formation of infrastructure financing districts assumes the presence of private landowners and registered voters. In order to adapt the provisions of Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5 of the Government Code, relating to infrastructure financing districts, to these unique circumstances, this special act is necessary.



MEMORANDUM

September 9, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director

SUBJECT: Air Quality at Heron's Head Park

DIRECTOR'S RECOMMENDATION: No Action Required

This staff report was prepared in response to the Commission's request at its meeting on June 14, 2005 for information about air quality in the southern waterfront, particularly emissions from power plants and industrial operations, and their potential impact at Heron's Head Park.

METEOROLOGICAL CONDITIONS

Ambient air (all outside air) quality is affected by meteorological conditions, topography, and the type and amount of air contaminants emitted. In San Francisco, in summer, when winds are generally stronger, wind is drawn through the Golden Gate over the lower portions of the peninsula. This channeling of air flow through the Golden Gate produces a jet stream that sweeps eastward. In winter, periods of storminess and moderate to strong winds alternate with periods of stagnation, with very light winds, and wind direction is more variable.

In 2004, Port staff reviewed meteorological data collected along the southern waterfront from a variety of local sources, including the City and County of San Francisco's Public Utilities Commission (PUC's) Southeast Water Treatment Facility, Pacific Gas and Electric's (PG&E's) Hunters Point power plant (HPPP), Hunters Point Naval Shipyard, San Francisco International Airport, the Bay Area Air Quality Management District (BAAQMD) and the San Francisco Bay Wind Archives (operated by the United States Geological Service and National Oceanic and Atmospheric Administration) in an effort to evaluate air quality conditions on the southern waterfront for the Port's Southern Waterfront Advisory Committee. A similar comprehensive

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evaluation of meteorological and air quality data for the southern waterfront area was recently undertaken by the PUC in evaluating potential air quality impacts of its proposed San Francisco Energy Reliability Project (SFERP)¹. The data from these sources support the following conclusions²: Wind is persistent, with calm conditions occurring less than 1% of the time³. Prevailing winds blow directly from the west to the east almost half the time. Winds blow in a generally easterly direction (i.e. to the northeast, east, or southeast) more than 80% of the time. Wind from other than the prevailing easterly direction occurs most often in the winter, and is typically a slower moving wind. Considering both the combined effects of the frequency and speed of wind flow, the overwhelming volume of air flow from the southern waterfront is to the east, over San Francisco Bay. Figures 1a–1c provide wind rose diagrams showing average wind speed and direction measured over a 12-month period at the PG&E HPPP, PUC Southeast Wastewater Treatment Plant, and Hunters Point Shipyard respectively. Figure 2 shows the wind rose diagram from the HPPP, which is closest to Port property, superimposed on the Port's southern waterfront, showing that air and pollutants released to the air from most sources on the southern waterfront travel predominantly east toward the bay rather than over Heron's Head Park.

AMBIENT AIR QUALITY ON THE SOUTHERN WATERFRONT

The U.S. Environmental Protection Agency (EPA) has established ambient air quality standards for ozone, nitrogen dioxide (NO₂), carbon monoxide (CO), sulfur dioxide (SO₂), particulate matter with diameter less than or equal to 10 microns (PM₁₀), particulate matter less than or equal to 2.5 microns in diameter (PM_{2.5}), and airborne lead. These are commonly referred to as "criteria air pollutants". PM₁₀ and PM_{2.5} are of particular concern with respect to potential health risks because they are small enough to be inhaled. Larger particles are filtered out by one's respiratory system. Particulate matter comes from a variety of sources, including vehicle exhaust, power plants, industrial facilities, unpaved roads and wood-burning. Most PM₁₀ is not visible, although some fraction of particles in the PM₁₀ size range (depending on the source) is visible to the naked eye⁴. PM_{2.5} is less than one-tenth the diameter of a human hair, and generally not visible to the naked eye. Because of their smaller size, PM_{2.5} can penetrate more deeply into the lungs where they are more likely to contribute to respiratory problems and other health impacts. In addition to the federal EPA air quality criteria, the California Air Resources Board (CARB) has established standards for ozone, CO, NO₂, SO₂, sulfates, PM₁₀, airborne lead, hydrogen sulfide, and vinyl chloride. Both the federal and state standards are designed to protect the most sensitive members of the population, particularly children, the elderly, and people who suffer from lung disease, including asthma, or heart disease.

¹ The San Francisco Energy Reliability Project consists of installation of three combustion turbine electricity generating units on a four-acre parcel located on Port property between 25th St. and Cesar Chavez, east of Illinois St. The purpose of the project is to ensure reliability of the local electrical system and enable shutdown of older electricity generating units at Hunters Point and Potrero power plants.

² *Application for Certification for the San Francisco Energy Reliability Project*, City and County of San Francisco PUC, March 2005, Section 8.

³ *Application for Certification for the San Francisco Energy Reliability Project*, City and County of San Francisco PUC, March 2005, Figure 8.1-5A.

⁴ BAAQMD web site: <http://www.Baaqmd.gov/pln/index.htm>

The BAAQMD operates ambient air monitoring stations around the bay area to measure concentrations of pollutants in ambient air and determine whether the standards established to protect human health are being met. The nearest of these stations to the southern waterfront is located at 17th and Arkansas Streets. This monitoring station is designed to provide data that are representative of ambient air quality in a large geographic area, and is considered by the BAAQMD to monitor air quality conditions in the eastern portion of the City of San Francisco⁵. Ambient air sampled at the 17th and Arkansas station consistently meets federal and state standards for all criteria air pollutants, with one exception: PM₁₀ concentrations consistently meet the federal standard but occasionally (10-40 days/year) exceed the more stringent state standard⁶. These results indicate that air quality in the eastern part of the city is generally good as compared with other parts of the Bay Area and other California urban areas.

In 2003, in an effort to determine whether air samples collected at 17th and Arkansas are representative of air quality in BVHP, BAAQMD, CARB, EPA, the City and County of San Francisco Department of Environment (DOE), and community groups initiated a project to measure ambient air quality in Bayview Hunters Point (BVHP). This project, the Bayview Community Air Monitoring Project (BayCAMP), has monitored more than 80 air pollutants, including ozone and particulate matter, for one year at a station located near the Earl P. Mills Community Center, across the street from Hilltop Park, at the intersection of Whitney Young Circle and Progress Street. The measured concentrations of criteria air pollutants do not differ significantly between the two monitoring stations⁷. The fact that monitoring results are not significantly different indicates that the data collected at both monitoring stations is representative of air quality at the two different locations and the area in between. However, localized air quality at particular locations between monitoring stations can be impacted by sources in the immediate vicinity such as traffic corridors or industrial sources.

SOURCES OF AIR EMISSIONS IN THE VICINITY OF HERON'S HEAD PARK

Power Plants

The most visible source of emissions in the vicinity is PG&E's HPPP, located south of Heron's Head Park. The HPPP operates under an air permit from the BAAQMD, which limits emissions of NO_x, PM₁₀, and CO to below amounts that would impact air quality. Emissions from the plant are monitored and recorded continuously during operation. The monitoring data is reported to the BAAQMD monthly, and is available to the public by request to BAAQMD or PG&E. The monitoring data shows that emissions from the HPPP have not exceeded permit limits for any pollutant regulated by the permit in over a decade⁸. Over the past 10 years, the HPPP's emissions have decreased by 90%, due to both the closure of some operating units and retrofitting the one remaining unit. The HPPP operates under a "must run" contract with the California Independent System Operator (ISO), which governs power generation throughout the state. Under the terms of the "must-run" contract, PG&E must operate the HPPP when the ISO requires it. The HPPP

⁵ Eric Stevenson, Air Monitoring Manager, BAAQMD, personal communication.

⁶ *Application for Certification for the San Francisco Energy Reliability Project*, City and County of San Francisco PUC, March 2005, Section 8.1.5-8.1.10).

⁷ Anne Eng, Environmental Justice Program Manager, Department of Environment, personal communication.

⁸ Kathleen Jones, Attorney, PG&E, personal communication.

does not operate at any other time. For the past three years, the HPPP has operated at approximately 32% of the power generating capacity authorized by applicable permits⁹.

PG&E has committed to closing the HPPP as soon as the ISO releases the plant from its “must-run” contract, which the ISO requires to ensure a reliable supply of electricity. This will happen as soon as two other projects that will improve transmission of electricity and ensure a reliable power supply are completed. Both projects are on track to be completed by the second quarter of 2006.¹⁰

Once the HPPP is closed, it will be demolished and the site will be remediated. The demolition and remediation will be subject to extensive regulatory oversight by the BAAQMD, Department of Toxic Substances Control and Regional Water Quality Control Board to ensure that remediation activities pose no significant risk to site workers, the public, or the environment, and that remediation achieves cleanup to appropriate standards. In October of 2003, the CPUC issued a decision adopting PG&E's estimate of \$65.1 million for Hunters Point decommissioning and site remediation costs¹¹. This estimate assumes that the site will be cleaned up to residential standards.

Emissions from the Mirant Potrero power plant (Potrero) also have a potential to impact air quality along the southern waterfront and at Heron's Head Park. As part of the environmental evaluation of potential environmental impacts from the SFERP project, Sierra Research, an air pollution research and engineering firm based in Sacramento, California, has used computer models to analyze current (based on actual emissions monitoring from the two power plants) and projected future air emissions. This analysis was conducted using USEPA-approved air quality dispersion models, and following USEPA-recommended guidelines for air quality impact analysis. These models are based on various mathematical descriptions of atmospheric diffusion and dispersion processes in which a pollutant source impact can be calculated over a given area. They are based on conservative assumptions, and consequently tend to over predict actual impacts. Modeling included evaluation of the effects of terrain, nearby structures, and local meteorology (based on one year of meteorological data collected at the Potrero power plant)¹². The results indicate that emissions from Potrero would not cause ambient air quality at Heron's Head Park or its surroundings to exceed air quality standards. The results of modeling the dispersion of air emissions from both power plants are discussed further below.

Industrial Operations on Port Property

There are a number of industrial facilities on Port property, primarily south of Islais Creek between Pier 90-96, that generate dust and other air emissions. These facilities include a concrete batch plant, sand and aggregate processing, and solid waste and concrete recycling. All operate under BAAQMD permits that regulate emissions of pollutants from their facilities, and/or they are subject to general regulations regarding generation of dust. Facilities subject to site-specific permits (concrete batch plants, solid waste and concrete recycling) are required to limit amounts of material processed, maintain emissions control equipment, monitor

⁹ Kathleen Jones, Attorney, PG&E, personal communication.

¹⁰ Kathleen Jones, Attorney, PG&E, personal communication.

¹¹ CPUC Decision D.03-09-006, 10/2/03.

¹² Gary Rubenstein, Senior Partner, Sierra Research, personal communication.

effectiveness of emissions control equipment, and report to BAAQMD to ensure that emissions are in compliance with the permit limits. The permit limits are calculated by BAAQMD to prevent emissions from permitted facilities from impacting ambient air quality.

The industrial operations in the Pier 90-96 area are primarily construction-related, involving large areas of exposed soil or aggregate material, and various degrees of crushing, processing and transportation of these materials. Truck traffic on unpaved and dusty roads in this area also generates significant dust. Dust generated by construction materials handling and wind-borne dust from unpaved ground typically ranges from 3 to more than 100 microns in size. The large particles (greater than 10 microns in diameter) that make up most of this dust typically settle out near their source¹³, and, if present in the breathing zone, are filtered out by one's respiratory system. Dust particles in this larger size range can reduce visibility and create nuisance conditions, but are not generally considered to pose a health risk and are not regulated as a criteria air pollutant.

In addition to BAAQMD regulations and permit requirements that limit dust and other air emissions from industrial facilities, Port tenants are required by lease conditions to comply with mitigation measures to reduce dust, including installation of wheel-washes, on and off-site watering of unpaved surfaces, and ongoing street sweeping. Since 2003, Port staff have been inspecting facilities in the Pier 90-96 area for compliance with mitigation measures, and generation of dust within or emanating from the facility. These inspections are made at least monthly during dry weather and intermittently during the wet weather season. Inspections have found that Port tenants are generally implementing dust mitigation measures effectively, but also identified instances where tenants' dust minimization efforts could be improved. Port staff have worked with tenants to make necessary corrective actions where deficiencies are noted. The inspections have also found that significant dust is generated from unpaved roads and driveways, and wind erosion of unpaved or disturbed soil. The imminent construction of a paved extension of Amador Street, and application of dust suppressant to unpaved areas will reduce dust from these sources.

Air Pollutant Emissions and Dispersion

As part of its analysis of potential environmental impacts from the proposed SFERP project, the PUC has gathered and analyzed data about air quality in the southern waterfront area, dispersion patterns, and projected changes in air quality resulting from closure of the HPPP. This analysis included computer modeling of the concentration and dispersion of air pollutants from the point of emission, and provides relevant information regarding the potential for emissions from various sources in the vicinity to impact Heron's Head Park visitors. All of the following data were provided by Sierra Research.¹⁴

For the purposes of illustration, Figures 3 and 4 show the projected concentrations of PM₁₀ and NO_x as emissions migrate predominantly eastward from the sources. In these figures, blue represents lower concentrations and red represents higher concentrations. Figure 3 shows air emissions impacts attributable to Potrero only (Figure 3a), HPPP only (Figure 3b), and both

¹³ *Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources: AP-42*. U.S. Environmental Protection Agency. Section 13.2, p.2. (1/95) <http://www.epa.gov/ttn/chief/ap42/ch13/final/c13s02.pdf>.

¹⁴ Gary Rubenstein, Senior Partner, Sierra Research, personal communication.

plants (Figure 3c) operating at full capacity on a “worst case” day, when the plants are operating at full capacity, and when the wind direction is from east to west for part of the time, rather than the more typical west to east. Under these conditions, the combined impact, which is primarily attributable to emissions from Potrero, occurs on the hills at Potrero and Hunters Point. The red areas represent the aerial extent of the highest projected PM concentration of 14-18 $\mu\text{g}/\text{m}^3$. It is important to note that this worst-case prediction of pollutant concentrations in the most impacted locations (shown in red) are below the most stringent 24-hour average air quality standards for PM_{10} and $\text{PM}_{2.5}$ (50 $\mu\text{g}/\text{m}^3$ and 65 $\mu\text{g}/\text{m}^3$ respectively). This means that even the highest concentrations of particulate matter projected to result from emissions from the two power plants, calculated from measurement of PM concentrations in power plant emissions, are below the levels established by BAAQMD to protect public health. Figure 3d shows the expected impacts after all of the power-generating units at Potrero and HPPP are retired and replaced by the PUC’s proposed SFERP, resulting in dramatic decreases in PM_{10} concentrations on peak operating, worst-case weather days.

Similarly, Figure 4 shows projected concentrations of NO_x from Potrero only (Figure 4a), HPPP only (Figure 4b) and both plants (Figure 4c). This analysis however used annual average levels of NO_x emitted from both plants, and annual average rather than “worst case” weather conditions. Consequently, the results reflect the more typical pattern of dispersion eastward with the predominant wind direction. Under average conditions, the greatest air quality impacts are located over the bay, east of the emissions sources. Again it is important to note that the highest projected NO_x concentration (the red areas, corresponding to 0.8 to 0.9 $\mu\text{g}/\text{m}^3$ NO_x) remains well below the ambient air quality standard (100 $\mu\text{g}/\text{m}^3$).

In a further effort to evaluate air pollutant concentrations in the southeast portion of the city, the PUC has also installed and begun monitoring PM_{10} and $\text{PM}_{2.5}$ at four new locations, shown in Figure 5: Malcolm X Academy, the Southeast Community Facility, the Wood Muni Maintenance Facility, and the Potrero Recreation Center. These new monitoring stations have not yet produced enough data to draw conclusions, however they will provide valuable information about local air quality and how it compares with regional ambient air quality.

Conclusions

Sources of air pollutants, including power plants and industrial activities, exist in the vicinity of Heron’s Head Park. However, evaluation of meteorological conditions, results of ambient air quality monitoring, measured concentrations of pollutants emitted from the power plants, and analysis of the concentration and dispersion of air pollutants from various sources in the area, all indicate that pollutant concentrations in the air at Heron’s Head Park are not likely to exceed air quality standards established to protect public health. The data do not suggest that Heron’s Head Park users are currently adversely impacted by air quality. Computer analysis of current air quality information and modeling of projected future air emissions indicate that air quality throughout the area will improve with the closing of PG&E’s Hunters Point Power Plant and some or all units of the Potrero power plant.



SOUTHERN WATERFRONT PORT TENANT DUST MONITORING SUMMARY

March 2004

Overview

The Port of San Francisco has a number of industrial activities located on Southern Waterfront lands under the Port's jurisdiction in San Francisco. They are primarily located south of Islais Creek on Piers 92-94, and include concrete batch plants, aggregate facilities including, aggregate importers, Bay sand reclamation and processing facilities, and solid waste and concrete recycling facilities. Each of these types of uses has the potential to create dust if proper mitigation and operating procedures are not adhered to.

Each of the Port's tenants is responsible for carrying out several mitigation measures to reduce or avoid dust emissions. These measures were derived from the Southern Waterfront Supplemental Environmental Impact Report (SEIR) completed in 2001, which analyzes the environmental impacts of various possible land uses developed in the Southern Waterfront, including the construction-related businesses above. The mitigation measures are required conditions under each tenant's lease agreement with the Port.

Port staff began to conduct field inspections in early 2003 to confirm that its tenants were complying with their respective dust mitigation requirements. This is of interest to several members of the community, who are particularly concerned that construction material-related businesses on Port property might be the source of dust in the Bayview Hunters Point community off Port property. In response, Port staff coordinated with other regulating agencies and specialists, to assess the potential for tenants' operations to create dust that may be effecting the adjacent community.

This report summarizes the following dust-related issues:

- 1) The types of dust of concern to community health;
- 2) Sources of dust on Port Southern Waterfront lands, and types of required permits; Required tenant mitigation measures;
- 3) Field inspections to monitor tenant compliance with dust mitigation measures;
- 4) A technical data summary of Southern Waterfront dust dispersion patterns; and
- 5) Conclusions and next steps

Dust Characteristics and Sources

Dust or particulate matter includes a wide range of solid and liquid particles within a certain size range. Depending on the size of the particles, particulate matter emissions can pose a nuisance or contribute to unhealthful air quality conditions. Large particles (greater than 10 microns in diameter) typically settle out quickly and, if present in the breathing zone, are filtered out by one's respiratory system before reaching the lungs. These larger sized particles are sometimes referred to as "nuisance dust", because they are generally not considered a public health concern and are not regulated as one of the criteria air pollutants. However, nuisance dust does contribute to soiling, visibility reduction and nuisance conditions. The Bay Area Air Quality Management District (BAAQMD) regulates visibility reduction caused by these larger particulates through Regulation 6. Regulation 6 establishes limits on emission rates, concentration, visible emissions and opacity to reduce volumes of visible nuisance dust. The regulation indicates that "a person shall not emit particles from any operation in sufficient number to cause annoyance to any other person . . ." and applies "if such particles fall on real property other than that of the person responsible for the emission."

Smaller particles travel further and are more likely to reach the part of the lungs where health impacts may result. Particles smaller than 10 microns in diameter (four ten-thousandths of an inch) are known as PM₁₀, and even smaller particles, less than 2.5 microns in diameter (one ten-thousandths of an inch) are known as PM_{2.5}. Because of their greater potential impact on human health, PM₁₀ and PM_{2.5} emissions are more strictly regulated and more likely to trigger the imposition of mitigation measures through the environmental review process. EPA states that the source characteristics and health effects of fine and coarse particles are noticeably different. EPA's Fact Sheet states as follows:

- PM₁₀ come from sources such as windblown dust from the desert or agricultural fields, and dust kicked up on unpaved roads by vehicle traffic. Thirty to forty percent of PM₁₀ derives from mechanical breakdown of rock or soil. PM₁₀ can accumulate in the respiratory system and aggravate existing health problems such as asthma.
- PM_{2.5} are generally emitted from activities such as industrial and residential combustion and from vehicle exhaust. PM_{2.5} are also formed in the atmosphere when gases such as sulfur dioxide, nitrogen oxides, and volatile organic compounds, emitted by combustion activities, are transformed by chemical reactions in the air. Less than two percent of PM_{2.5} derives from soil breakdown. PM_{2.5}, which penetrate deeply into the lungs, are more likely than coarse particles to contribute to upper respiratory and other adverse health effects.

Sources of Dust from Port Property

Most of the industrial uses of concern on Port Southern Waterfront property are construction-related industrial operations which involve large areas of exposed soil or aggregate materials, with varying degrees of crushing, processing, and transport of these materials. In addition, many of the operations are conducted outdoors and thus are extensively exposed to wind blown erosion. Dust generated by construction materials handling operations include larger diameter particles (greater than PM₁₀) that settle out on roads, parked cars, or other horizontal surfaces, as

well as smaller diameter particles (PM₁₀ to PM_{2.5}) that take longer to settle out of the air than larger particulates. Construction-related dust typically ranges in size from 3 to 100 microns in diameter, and sand ranges in size from 20-200 microns in diameter. These operations are subject to applicable BAAQMD regulations and permit requirements to minimize nuisance dust, and reduce, to the greatest extent feasible, PM₁₀ and PM_{2.5} emissions. Sources of dust include:

- **Bode Concrete**, a ready-mix concrete manufacturer which operates under a BAAQMD permit that regulates emissions from numerous sources (storage piles, bins and silos, conveyors, mixing and batching equipment, loading equipment) and associated emissions abatement equipment (water spray, baghouses). Permit conditions require proper operation and maintenance of all equipment and annual testing to verify proper operation and efficacy of emissions controls. The permit limits total annual throughput (amount of material stored and processed per unit time) through various pieces of equipment. The throughput limit is calculated to limit PM₁₀ emissions to approximately six tons/year, or 175 lbs/day.
- **Mission Valley Rock**, a joint tenant with Bode that reclaims sand from the Bay which is used in producing concrete and construction materials, as well as other uses. Mission Valley Rock's operations include sand washing, screening, and storage. These activities are exempt from the requirement for a BAAQMD permit because the material stored and handled has a 5% or greater moisture content
- **Specialty Crushing** receives and crushes concrete and building materials reclaimed from construction sites, and operates under a BAAQMD permit for storage, crushing and screening equipment, conveyors, and concrete batching equipment, and associated abatement equipment (water spray, baghouses). Permit conditions require proper operation and maintenance of equipment and maintenance of 4% or greater moisture in storage stockpiles. The permit limits total annual throughput to a rate calculated to limit PM₁₀ emissions to 9.4 lbs/day.
- **Hanson Aggregates**, reclaims and processes Bay sand at Pier 92, and imports aggregates (rock and gravel) by ship at the Pier 94 marine terminal. Both operations are exempt from BAAQMD permit requirements because the material stored and handled has a 5% or greater moisture content.
- **Unpaved Roads and Driveways** in the Pier 92 area and adjacent Pier 90-94 Backlands are used by trucks and vehicles accessing Port tenant businesses, particularly along the Amador Street corridor. Dirt that is kicked up by truck tires produces a substantial amount of dust in the area.

Two other concrete batch facility businesses, Pacific Cement and RMC Pacific Materials, have approved Port leases, but have not constructed their facilities. Like Bode, they will also be subject to facility-specific permit conditions and requirements.

Dust Suppression Mitigations

In addition to BAAQMD permit requirements which reduce dust of their operations, Port tenants have incorporated business practices and/or comply with required mitigation measures to minimize dust impacts, including the following:

- Installation of truck wheel-washing systems at plant exits Install Best Available Control Technologies (BACT) such as overhead sprays on construction material piles and unpaved roadways to maintain moisture content that prevent particles from becoming airborne.
- Limit the production of concrete or asphalt material produced to levels that do not result in truck travel volumes or operational emissions that exceed the levels analyzed in the Southern Waterfront SEIR.
- Conduct ongoing street sweeping operations
- Requirements for good faith efforts for tenants to engage in operational practices sensitive to the environment by investigating and implementing, where feasible, measures to reduce diesel emissions. The Port offers economic incentive to this objective by contributing towards the cost differential of alternative or low-emission fuels, or vehicles and/or engine technologies. Several of the Port's tenants, such as Bode and Hansen, use a low emission diesel fuel such as Lubrizol. Others have upgraded their trucks to newer, lower-emission models (RMC Pacific Materials). Another Port tenant, Sanitary Fill, which runs a recycling facility at Pier 96, employs Liquefied Natural Gas (LNG) vehicles.

A detailed list of the air quality mitigations required to help mitigate against dust and outlined in the SEIR are included in Appendix.A-1.

Field Inspections Process and Corrective Measures

Inspection Procedures:

The Port of San Francisco began inspecting certain facilities with significant potential to generate dust in May 2003. Inspections include visual observation of dust emissions, wind speed measurement, and checking for compliance with mitigation measures outlined in the SEIR and/or required by the leases for the subject facilities. Each inspection is an unannounced 30-minute observation. Inspections are conducted at varied times of day to evaluate different wind and traffic conditions.

The Port is monitoring facilities that may generate dust during certain operations, such as loading/unloading or processing materials, or by wind or traffic generating dust from stockpiles or unpaved surfaces. BAAQMD regulations limit dust emissions to specific concentrations, measured by a specialized method of visual observation and/or by instruments that measure particulate matter in air. However, the regulations also prohibit generation of dust from any facility or operation in sufficient quantity that dust can be seen emanating beyond the property line of the facility, if the dust falls on adjacent property. This general prohibition does not rely on a quantitative measurement, but rather prohibits discharge of dust visible to the naked eye. For the purposes of the Port's monitoring effort, if any visible dust was observed, within or emanating from the facility, that observation was recorded as a "dust observation".

Summary of Conclusions:

During the Port's initial inspections, Port staff observed that Port tenants were generally implementing required dust mitigation measures. This included sweeping the leasehold area and adjacent streets, watering un-paved roadways, covering or keeping aggregate and material stockpiles moist, and keeping vehicle speeds to 10 m.p.h. The Port did observe some potential corrective actions that would improve dust control measures, such as insuring that the street sweepers used sufficient water, increasing the use of water on stock piles, and increasing the frequency in which un-paved roadways were being watered. These corrective actions were immediately brought to the attention of the tenants' operational managers, and have been carried out. Port staff have observed in follow-up inspections that corrective actions needed and identified were taking place.

Observations indicated that significant additional benefits would be seen if currently unpaved roadways were paved, reducing the potential for dust to be re-suspended into the air from truck tires. While paving of unpaved roadways would improve air quality within the Port's property, it was not concluded that the air quality benefits would extend significantly into adjacent non-Port areas, because most of the dust volumes stay in the immediate area regardless. The Port is planning improvements to unpaved roadways, including paving Amador Street between Piers 90-92 and 94-96 and the access way between Bode Gravel and the future RMC Pacific Concrete Batch Plant.

The Port sent memos summarizing the applicable findings of the field inspections to each tenant, and followed up to ensure that tenants received the documents and were taking necessary corrective actions. The Port will continue to monitor and enforce tenants' implementation of the mitigation measures required by their leases.

Technical Data effecting Dust Dispersion

Port staff, working with staff and information from the BAAQMD and U.S. Environmental Protection Agency (EPA) have compiled data which confirm the air quality analysis and mitigation measures contained in the Southern Waterfront SEIR. This information was gathered to re-examine whether the Port's tenants operations are causing dust to migrate off Port property into the surrounding neighborhoods.

Air quality experts first recommended that meteorological data be compiled to summarize prevailing wind speeds and directions. The Port gathered data from several sources including PUC's Southeast Water Treatment Facility, PG&E's Hunters Point power plant, Hunters Point Naval Shipyard, San Francisco International Airport and the San Francisco Bay Wind Archives operated by United States Geological Service (USGS) in conjunction with the National Oceanic and Atmospheric Administration (NOAA). The PG&E Hunters Point Power Plant weather station provided the most consistent baseline database, and the data is consistent with that from the other sources. Appendix A-2 contains Wind Rose models from the PUC Southeast Treatment Facility, the Hunters Point Naval Shipyard and San Francisco International Airport. *Figure 1, a Wind Rose Model for the Southern Waterfront Area*, illustrates average wind speed and direction for a 12-month period. This model indicates that the prevailing winds in the Port area blow from the west to the east, which occurs during about 45% of the time over the course of a year. Winds blow in an easterly direction for a total of approximately 81% of the time. Winds blow in various other directions typically during the rainy months, when dust sources are naturally wetted. The model further illustrates that when the wind is blowing in other than the prevailing direction, it is a slower moving wind.

Figure 2: Southern Waterfront Port Tenant Setting illustrates the location of each of the construction-related industries and their location relative to the Bayview Hunters Point community. Overlapping the wind rose model on this exhibit shows that if the wind were to carry dust particulates off of Port property, it would be in the direction of the Bay and not towards the Bayview Hunters Point community.

Air quality experts from the BAAQMD stated that the climate conditions (including prevailing wind direction, wind speed and humidity levels), reported from nearby meteorological stations indicate that the potential for airborne dust to be dispersed from Port property to Bayview Hunters Point is very low. In addition, information from the EPA, including a report conducted by the Desert Research Institute states that “Available data shows that ~75% of suspended PM₁₀ remains within 1 to 2 meters above the ground.” This information suggests that neither nuisance dust (larger than PM₁₀) nor smaller particulates (PM₁₀ to PM_{2.5} particles) travel in significant volumes off Port property.

The Desert Research Institute report also reviews current BACT measures designed to mitigate and limit the potential impacts from aggregate facilities such as those on the Port’s Southern Waterfront. BACT measures outlined in the report are the same measures identified in the SEIR, which are required in each of the tenants leases.

A one-year pilot project sponsored by the City’s Department of Environment, the BAAQMD, the California Air Resource Board, the USEPA, and Literacy for Environmental Justice titled “BayCAMP” is currently in the process of being established. This program will be monitoring air quality in the Bayview Hunters Point community and will also be tracking meteorological data. The monitoring device is planned to be located just off of Whitney Young Circle on “the Hill”, within the community adjacent to Port Property. Information gathered from this project will allow the Port to continue to track pertinent meteorological data and other information including sampling data gathered.

Conclusion and Next Steps

The Port’s research, in conjunction with field inspections of Port tenant operations, conclude that Port tenants’ operations are not significantly contributing to dust which has been observed off of Port lands and in the surrounding community. Also, with proper implementation of the mitigation measures in place, dust is unlikely to pose a nuisance or potential health risk.

To ensure that Port tenants continue to comply with the mitigation measures outlined in the SEIR and as required in their leases, the Port will continue unannounced field inspections and coordination with its tenants to ensure operating procedures are followed. The Port will also continue to monitor information gathered from the BayCAMP project to determine if new information gathered reflects a potential need for Port tenants to adjust operating procedures to minimize potential dust impacts to the surrounding community. The Port will also continue to pursue the construction and improvements to unpaved surfaces such as Amador Street or the access driveway to Mission Valley Rock off of Amador Street

APPENDIX A-1

Southern Waterfront SEIR Dust Mitigation Measures

The following is a list of the mitigation measures identified in the Southern Waterfront Supplemental EIR, numbered to correspond with the SEIR

- C.1 Each of the Industry Group construction aggregate industry project components, which would represent “stationary sources” of particulate emissions, shall include “best available control technology” (BACT) to control emissions, consistent with current regulations. For aggregate-handling operations (Bode Gravel, Mission Valley Rock, RMC Pacific, British Pacific Aggregates), this includes maintaining a moisture content in the aggregate that is high enough to eliminate PM-10 “fugitive” emissions (wind-blown dust that could otherwise escape into the surrounding air). A water spray system shall be installed at each aggregate-handling facility, including Bode Gravel, Mission Valley Rock, RMC Pacific, and British Pacific Aggregates. Fine aggregate material (sand) shall be maintained with a moisture content of approximately 5 percent, because such material with a moisture content of 4.5 percent or more produces virtually no fugitive emissions. Coarse aggregate (gravel) shall be kept damp on the surface, which would also effectively eliminate fugitive dust. Aggregate shall be stored in bunkers at ready-mix and asphalt plants, rather than open piles, with water spray (including the use of surfactants, as necessary, to bind the water and dust to the aggregate) applied to maintain adequate moisture content to control emissions at both production and shipping/storage operations. ISG Resources, which would handle fly ash, a finer, more powdery material than aggregate, shall install BACT dust collection equipment to accommodate truck and rail transport and shall use pneumatic equipment to control dust emissions during the transfer of fly ash.
- C.3 Consistent with the City’s Clean Air Program (established by Ordinance 258-99, adopted October 15, 1999), it is City policy to “foster, promote, and encourage the use of low emission [alternative fuel vehicles] and [zero emission vehicles] by developing infrastructures to support the use of these vehicles.” Under the ordinance, the City is to (1) assess the need for a network of natural gas fueling stations accessible to the public; (2) site and develop at least five such facilities, by public and/or private entities; (3) install 50 publicly accessible electric vehicle charging stations in City garages, lots, or other sites; (4) develop a plan for additional charging stations and related infrastructure; (5) buy and lease ultra-low and zero emission vehicles for City department use; (6) identify and convert diesel bus lines to electric service; (7) develop a plan to phase out older diesel buses; (8) develop a plan and incentives to encourage larger private vehicle fleets to convert their fleets to very low or zero emission vehicles; and (9) develop a car sharing program in high density neighborhoods.

Consistent with the City’s Clean Air Program, the Port shall require that all tenants make a good faith effort to engage in operational practices sensitive to the environment and the neighboring community. In furtherance of this, the Port shall require that tenants operating a fleet of vehicles investigate the potential for use of low- or zero emission vehicles and implement measures to reduce vehicle emissions to the maximum feasible extent. Options may include, but not necessarily be limited to, the use of low-emission diesel fuel (including low-sulfur diesel); the use of catalytic particulate traps for diesel-powered engines that are currently under study by the California Air Resources Board; the use of other emerging technologies to reduce diesel particulate emissions; and use of electric vehicles. The Port shall also require that tenants operating diesel-powered stationary equipment investigate similar options. Tenants shall investigate retrofitting existing engines and purchase of new engines. The Port shall further require that tenants who work with independent trucking contractors encourage those contractors to make similar efforts, including, if reasonably feasible, providing such truckers with economic incentives to retrofit equipment or take other measures as may be necessary to use low-emission fuels. As an economic incentive to minimize

diesel emissions from Port property, the Port shall contribute towards the incremental costs incurred by its tenants for Port-approved equipment and improvements in furtherance of this measure. Finally, the Port shall establish a schedule by which tenants described above shall report to the Port on progress in investigating reduced-emission engines.

C.4 At such time as specific mixed-use or other non-industrial projects generating more than 100 daily vehicle trips are approved and occupied at the Pier 70 Mixed-Use Opportunity Area and the Pier 90-94 backlands, the Port shall develop a Transportation Systems Management (TSM) Plan, and potentially a Transportation Management Agency (TMA) that would consist of Port staff, Port tenants, property owners, and project occupants. The goals of the TSM Plan and the TMA shall be to reduce, to the maximum feasible extent, the use of single-occupancy automobile traffic and encourage other forms of travel to and from work, including transit, carpooling and ridesharing, bicycle, walking, and other means.

C.4A To regulate the production of concrete or asphalt material consistent with the volumes analyzed in the Southern Waterfront SEIR, any lease for concrete or asphalt batching operations on Port property shall include a provision setting forth the maximum production volume allowed under the lease, such that the cumulative total of production volumes of such batching operation leases shall not exceed the volumes assumed and analyzed in the SEIR.

To monitor production volumes that may occur on Port property, the Port shall require as a condition of each lease that each tenant provide annually an audited account of the concrete and/or asphalt production volumes provided by each concrete or asphalt production business. The Port shall incorporate this information in an annual report to the Port Commission.

Should any existing tenants propose to increase production above the amounts stipulated in the lease, such change would require an amendment to the lease, and would be subject to further environmental review by the San Francisco Planning Department's Major Environmental Assessment (MEA) division. In determining whether further environmental impact analysis will be required, MEA will consider the production levels cited in the Port's report and any emission-reducing improvements that may have been incorporated into the on-site operations (stationary sources), and trucks and other vehicles associated with the operations (mobile sources).

REVISED MEASURE FROM THE 1997 WATERFRONT PLAN FEIR, AS APPROVED BY THE PORT COMMISSION, JUNE 1997

C.5 The Port shall require that project sponsors direct construction contractors to implement a dust abatement program to reduce the contribution of project construction to local PM-10 concentrations. Elements of this program, which is currently applied to all Port tenants, include the following:

- Water internal roadways and unpaved construction areas just prior to the morning and evening peak traffic periods (to limit the potential for major roadway traffic to entrain dust), limit speeds to 10 mph, and sweep paved internal roads after the evening peak period.
- In addition, water active sites (e.g., where demolition, excavation or other earth work is underway) at least twice per day. Increase the frequency of watering when wind speeds exceed 15 miles per hour. Suspend all excavating and grading operation when instantaneous gusts exceed 25 miles per hour.
- Replace ground cover in disturbed areas as quickly as possible.
- Enclose, cover, water twice daily, or apply soil binders to exposed stockpiles of sand, gravel, and dirt.

- Install gravel at construction equipment entrances to unpaved areas to prevent tracking of dirt and mud onto streets.
- Sweep paved access roads, parking areas, and construction staging areas, at the end of day (with water sweepers), and sweep adjacent City streets if any visible soil material is carried over to these streets.
- Cover all trucks hauling dirt, sand, soil, or other loose materials. Maintain at least six inches of freeboard between the top of the load and the top of the trailer.
- Sweep up dirt or debris spilled onto paved surfaces immediately to reduce resuspension of particulate matter through vehicle movement over these surfaces.
- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.
- Maintain and operate construction equipment so as to minimize particulates from exhaust emissions. During construction, require contractors to operate trucks and equipment only when necessary. Equipment should be kept in good condition and well-tuned, to minimize exhaust emissions.

Ordinance 175-91, passed by the Board of Supervisors on May 6, 1991, requires that non-potable water be used for dust control activities. Therefore, the project sponsor shall require that the contractor(s) obtain reclaimed water from the Clean Water Program for this purpose.

This mitigation measure also would reduce demolition-related impacts regarding lead paint chips/lead dust. The project sponsor shall also be required to comply with Chapter 36 of the San Francisco Building Code, Work Practices for Exterior Lead-Based Paint, enforced by the San Francisco Department of Building Inspection.

C.6 Consistent with the construction-period dust abatement program described in Mitigation Measure C.5, the Port shall require that Industry Group components and other aggregate-related tenants employ dust abatement procedures including, but not necessarily limited to, the following:

- installation and operation of truck wheel-washing systems at the plant exits;
- daily street sweeping on streets surrounding aggregate-related facilities; and
- clearly posting on the exterior wall or fence of such facilities a company telephone number for citizens to call with dust, noise, or other operational complaints, and designation of a Port staff contact for same.

No other feasible mitigation measures have been identified that would reduce the project's total regional emissions to a level below Bay Area Air Quality Management District thresholds, or eliminate the project's contribution to potentially significant cumulative impacts from all existing (unquantified) and future (unknown) emissions sources.

List of Acronyms

BAAQMD	Bay Area Air Quality Management District
BACT	Best Available Control Technologies (Dust Control)
NOAA	National Oceanic and Atmospheric Administration
PM	Particulate Matter
PUC	Public Utilities Commission
SEIR	Southern Waterfront Environmental Impact Report
USEPA	United States Environmental Protection Agency
USGS	United States Geological Service

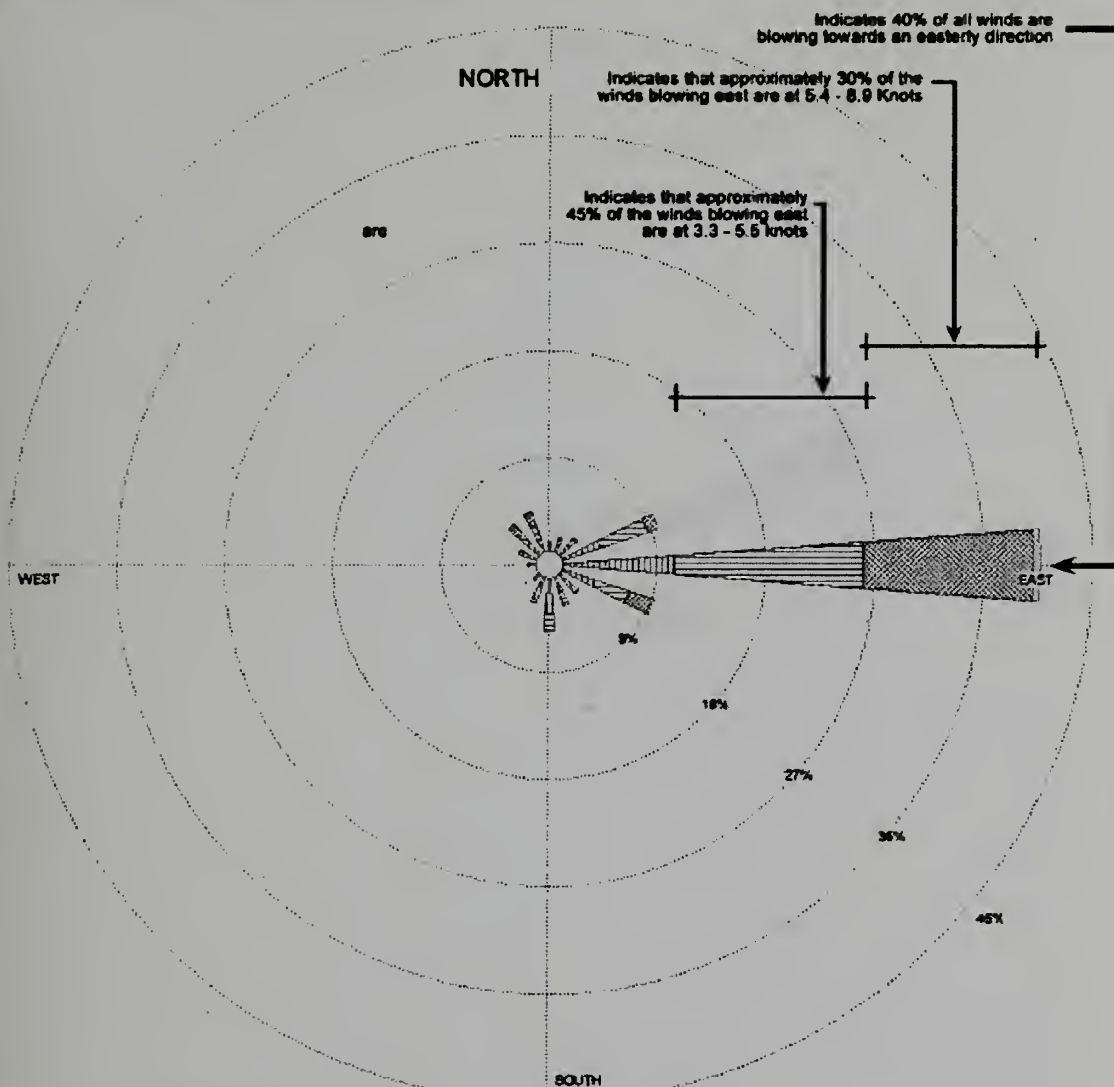
REFERENCES

- U.S. EPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Fact Sheet, November 1996. Information is also available on the California Air Resources Board Web site (www.arb.ca.gov).
- Desert Research Institute Paper Reconciling Urban Fugitive Dust Emissions Inventory and Ambient Source Contributions Estimates – Summary of Current Knowledge and Needed Research, May, 2000)
- Characteristics of Particles and Particle Dispersion, Courtesy of Royco Instruments, provided by Ron Meyers USEPA, Emission Measurement Center
- Meteorological Data provided by, Bay Area Air Quality Management District, Dick Duker

G/southern waterfront/environmental mitigation issues/dyo 3-16-04 dust summary

WIND ROSE PLOT

PGE Hunters Point Power Station - Figure 1A



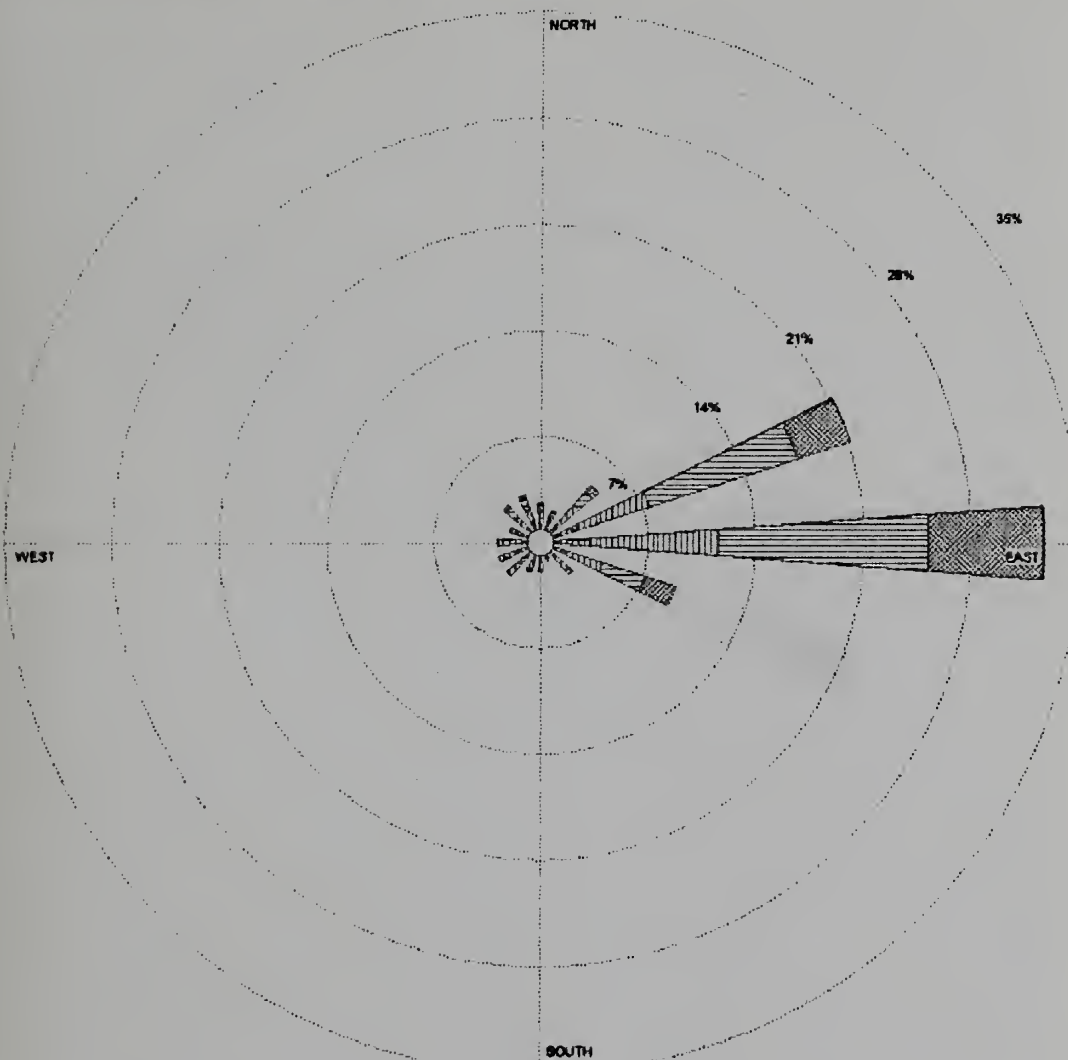
Wind Speed (m/s) 	MODELER DJB	DATE 2/2/04	COMPANY NAME Port of San Francisco
	DISPLAY Wind Speed	UNIT m/s	COMMENTS
	AVG WIND SPEED 3.77 m/s	0.52%	
	ORIENTATION Flow Vector (blowing to)	PLOT YEAR-DATE-TIME 1992 Jan 1 - Dec 31 Midnight - 11 PM	PROJECT/PLOT NO. 13

WINDROSE v. 3.5 by Lakes Environmental Data Inc. - www.lakesenvironmental.com

-Wind Rose Diagram, PG&E Hunters Point Power Plant

WIND ROSE PLOT

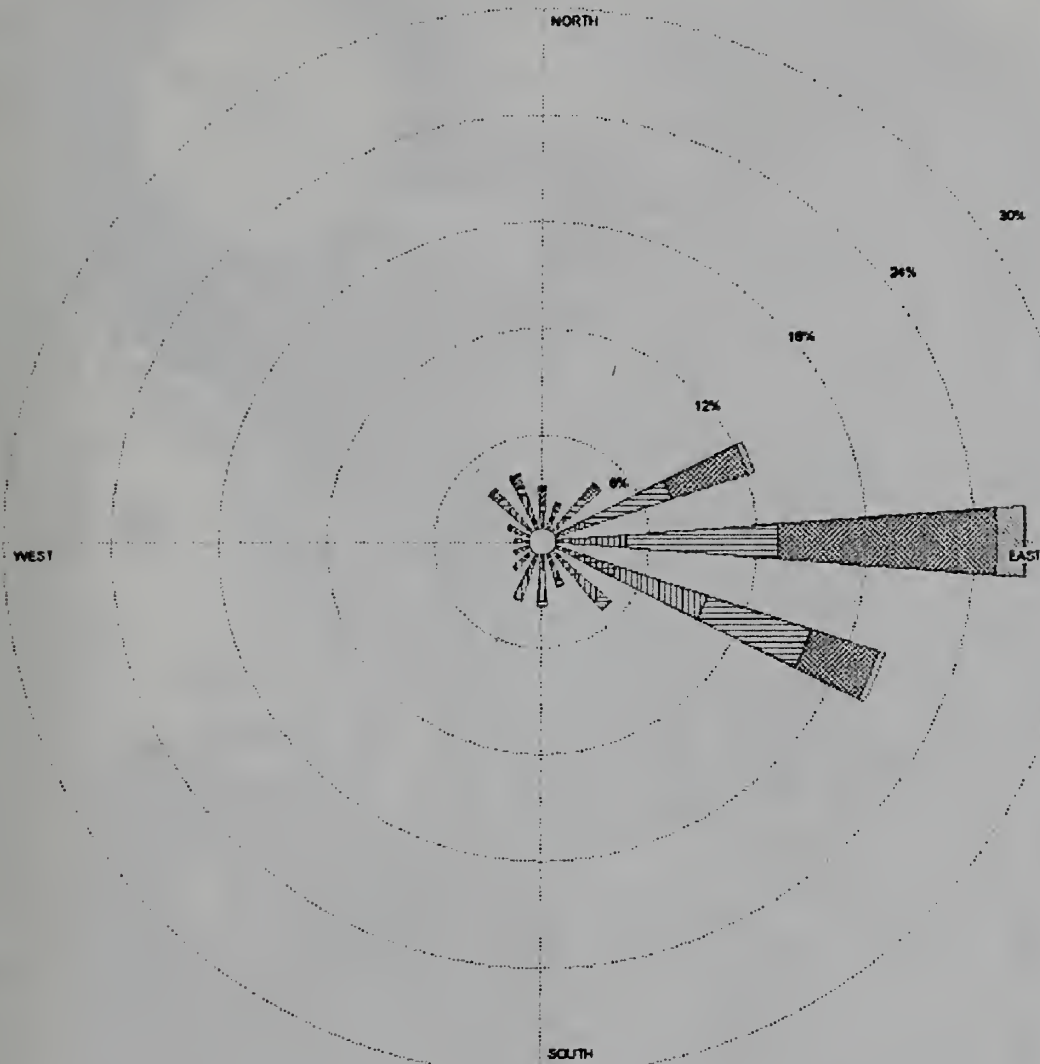
San Francisco PUC Southeast Water Treatment Facility - Figure 1B



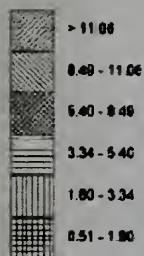
Wind Speed (Knots) 	MODELER DJB	DATE 2/2/04	COMPANY NAME Port of San Francisco
	DISPLAY Wind Speed	UNIT Knots	COMMENTS
	AVG WIND SPEED 6.57 Knots	1.29%	
	ORIENTATION Flow Vector (blowing to)	PLOT YEAR-DATE-TIME 2002 Jan 1 - Dec 31 Midnight - 11 PM	PROJECT/PLOT NO. 13

WIND ROSE PLOT

Hunters Point Ship Yard - Figure 1C



Wind Speed (m/s)



MODELER

DJB

DATE

2/2/04

COMPANY NAME

Port of San Francisco

DISPLAY

Wind Speed

UNIT

m/s

COMMENTS

AVG. WIND SPEED

3.92 m/s

0.00%

ORIENTATION

Flow Vector
(blowing to)

PLOT YEAR-DATE-TIME

2002
Jan 1 - Dec 31
Midnight - 11 PM

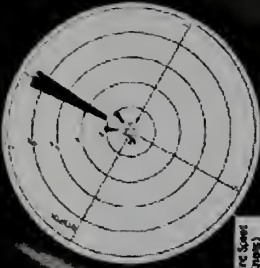
PROJECT/PLOT NO

13

San Francisco Bay

Southern Waterfront Port Tenant Setting

- Construction Related Industry Leases
- Existing Open Space Areas
- Planned Open Space Areas
- Port of San Francisco Lands Boundary

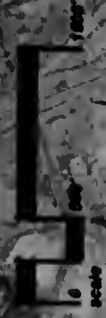


Area Size (Hectares)
> 21
17-21
11-16
7-10
4-6
1-3

BAYVIEW
HUNTERS POINT
COMMUNITY

Proposed
Bay Area
Freight
Terminal
Facility

Proposed
Water
Treatment
Facility



January, 2004
PORT OF SAN FRANCISCO

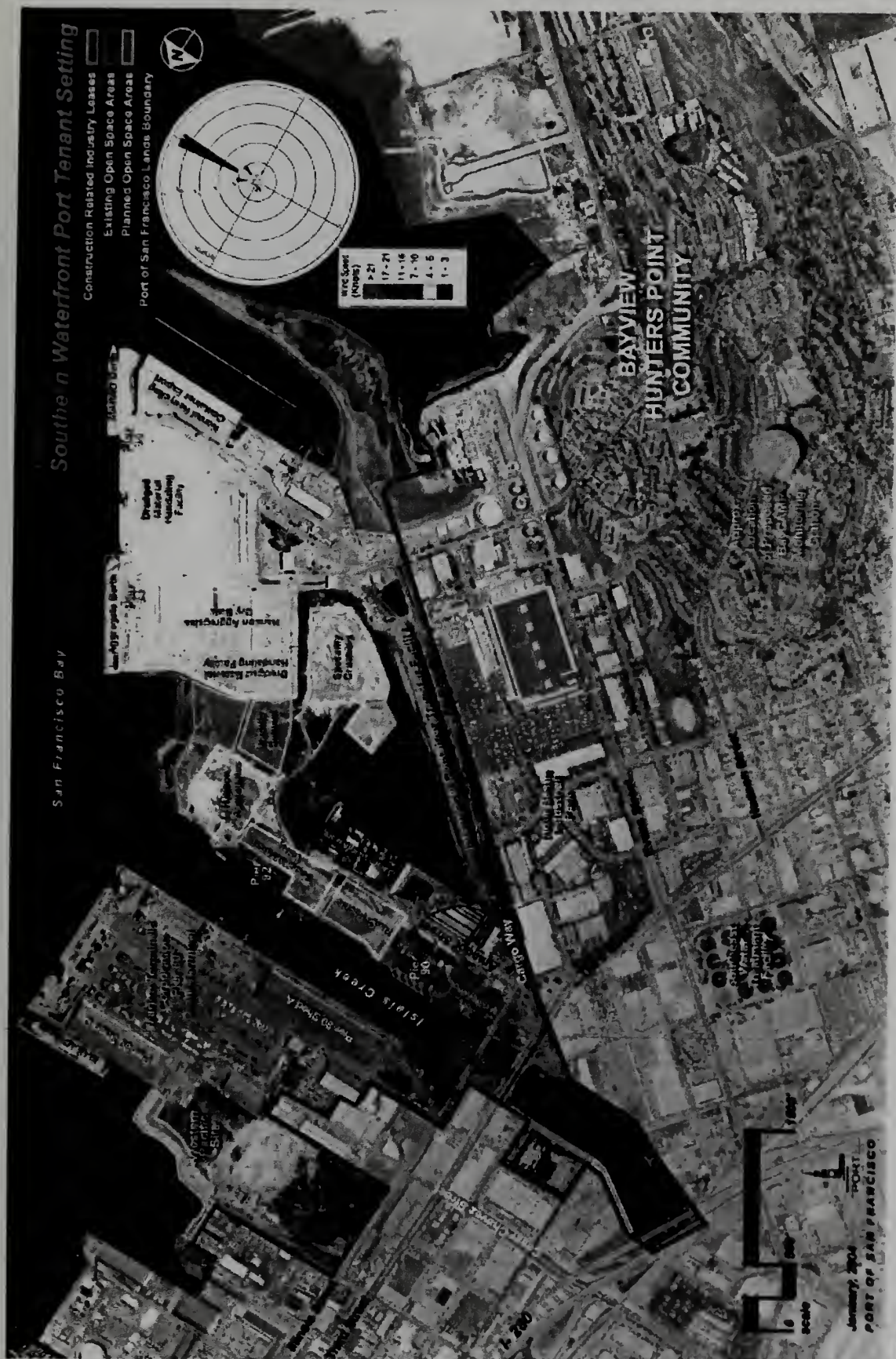
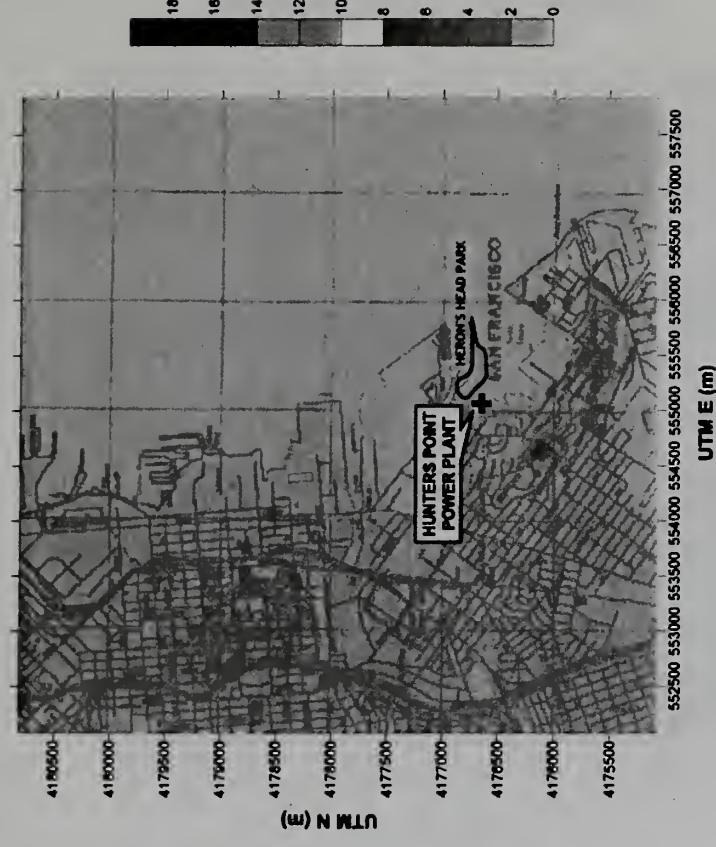


Figure 3: 24-Hour $PM_{10}/PM_{2.5}$ Concentrations, $\mu g/m^3$

3a: Potrero Power Plant



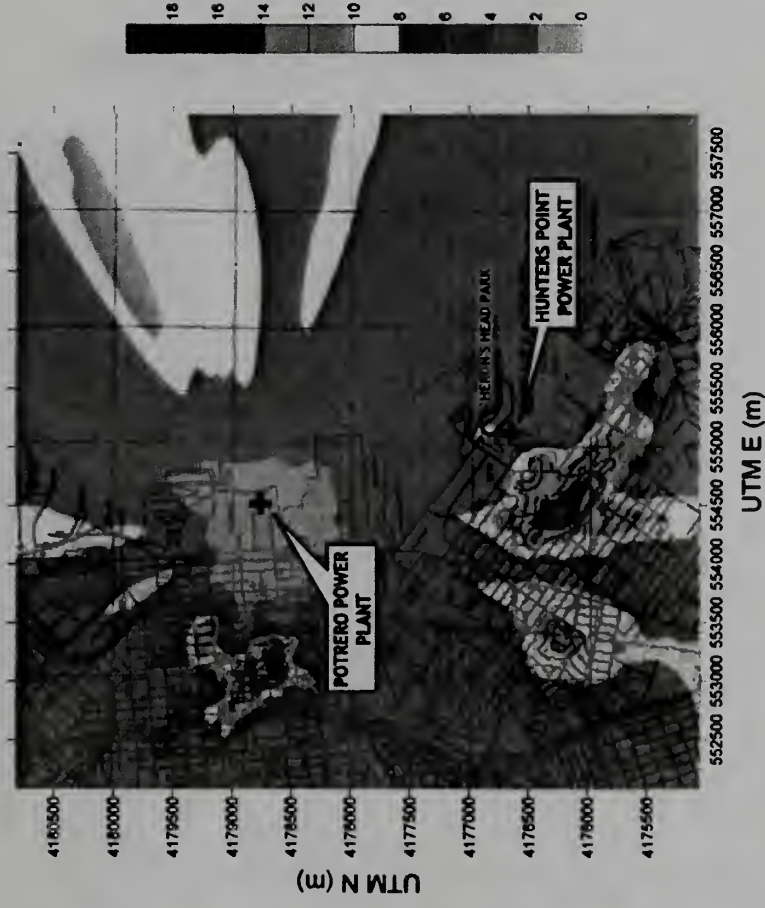
3b: Hunters Point Power Plant



National Ambient Air Quality Standard: PM_{10} —150 $\mu g/m^3$; $PM_{2.5}$ —65 $\mu g/m^3$
 California Ambient Air Quality Standard: PM_{10} —50 $\mu g/m^3$; $PM_{2.5}$ —no standard

Figure 3: 24-Hour $PM_{10}/PM_{2.5}$ Concentrations, $\mu g/m^3$ (cont'd)

**3c: Potrero and Hunters Point Power Plants
Where We Are Today**



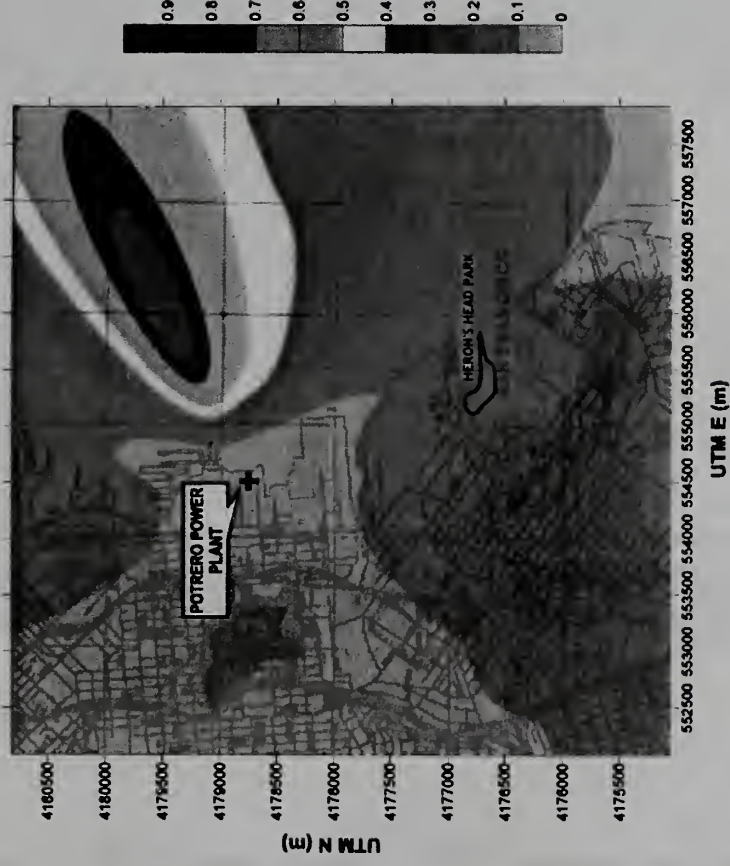
**3d: SFERP CTs Only
Where We Hope to Be**



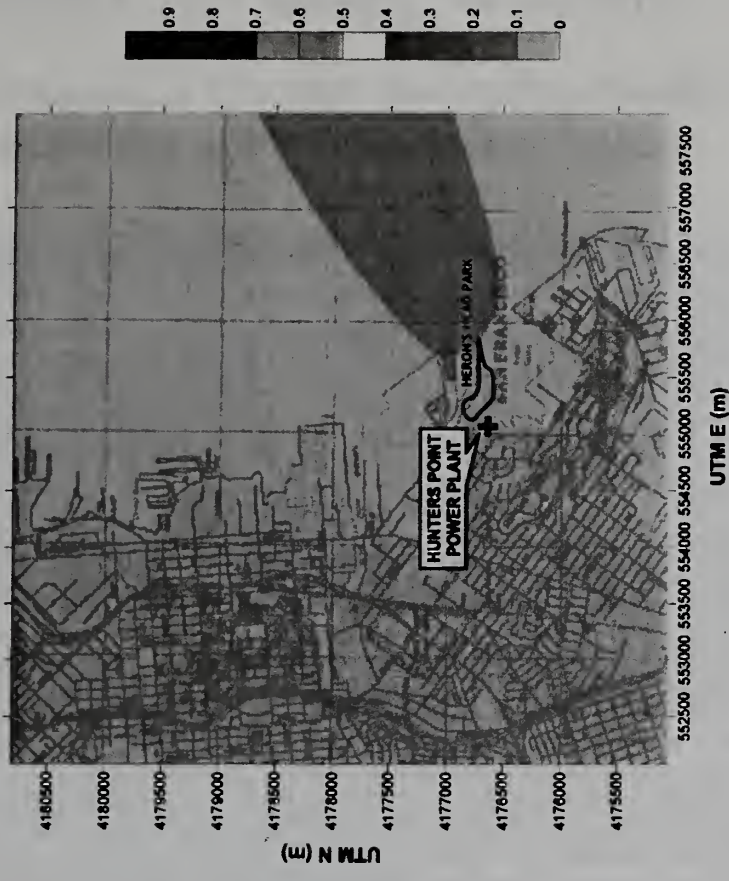
National Ambient Air Quality Standard: PM_{10} —150 $\mu g/m^3$; $PM_{2.5}$ —65 $\mu g/m^3$
 California Ambient Air Quality Standard: PM_{10} —50 $\mu g/m^3$; $PM_{2.5}$ —no standard

Figure 4: Annual Average NOx Concentrations, $\mu\text{g}/\text{m}^3$

4a: Potrero Power Plant



4b: Hunters Point Power Plant



San Francisco Electric Reliability Project Locations of PM Monitoring Sites



SAN FRANCISCO PORT COMMISSION

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SEPTEMBER 13, 2005 MINUTES OF THE MEETING

MEMBERS, PORT COMMISSION

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN
HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR

CITY & COUNTY OF SAN FRANCISCO PORT COMMISSION

MINUTES OF THE REGULAR MEETING SEPTEMBER 13, 2005

1. CALL TO ORDER / ROLL CALL

Commission Vice President Michael Hardeman called the meeting to order at 3:10 p.m. The following Commissioners were present: Michael Hardeman, Kimberly Brandon and Ann Lazarus. Commissioner Sue Bierman arrived at 3:20 p.m. Commissioner Hsu was not present.

2. APPROVAL OF MINUTES - August 23, 2005 Meeting

ACTION: Commissioner Lazarus moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report: Ms. Moyer reported the following:

- Pier 27 Soccer Program Fall 2005: Mills have requested the temporary use of the valley area of Pier 27 for a 6-month lease to build a half-acre temporary playing field for children's soccer which will be booked through YMCA or the Viking Soccer League. The field could be used for other things such as T-ball and softball but it will be primarily used for children's soccer games which would take place on Saturday mornings and weekdays after 3 p.m. In order for the Port to accommodate Mills request, staff is looking at relocating the 95 spaces that Central Parking currently leases to meet our parking demands and revenues.
- Commendation for Julia Viera: Commissioner Hardeman read the Proclamation of Appreciation to Julia Viera. On behalf of the Port, he thanked her for all her efforts at the Port and wished her all the best.

Ms. Julia Viera thanked everyone for the opportunity to work with them. Through it all, the Port has always been her favorite. She thanked them for their friendship.

- Commendation for Carole Migden: Commissioner Hardeman read the resolution honoring Senator Carole Migden who's been a dear friend of the Port for the authorship and leadership of obtaining passage of legislation Senate Bill 1085, Infrastructure Financing Districts. The Port Commission and staff expressed their heartfelt thanks to Senator Carole Migden for her loyalty and dedication to San

Francisco for her many years of devoted effort and action in assisting the Port to steward the public trust along the City's waterfront.

- Office of Emergency Services distribution of emergency supplies: The City has been very committed at all aspects, individuals, corporations and government towards assisting the victims of Hurricane Katrina. The Mayor issued a directive entitled *SFGives* instructing all City departments to do all that they can to assist any requests that come forward. There was an expectation that about 300 or so people would be coming to San Francisco to stay in St. Mary's Cathedral. The Port was asked to be on notice to provide space to accommodate those folks. While they wouldn't be physically staying at the Port, they were looking to the Port to provide space for any supplies that came through. The Port had two available locations for the Office of Emergency Services in the event that the need arose. Late last week, FEMA put those transport on hold in part because many of the evacuees do not want to be so far from home, their loved ones and their pets. The Port stands ready in the event that the need arises. Ms. Moyer asked for a moment of silence to recognize our fellow ports who have been devastated and to give tribute to the cruise lines, ferry liners, cargo shippers who are trying their best to help out the Coast Guard.
- September 14, 2005 - Celebration of the Receipt of Two Carl Moyer Air Quality Grants at 100 Cargo Way (LB Railco Yard) at 11:30 a.m. The Port will be participating in an event hosted by LB Railco and the Bay Area Air Quality Management District to celebrate the receipt of two Carl Moyer Air Quality Grants. The grants will provide LB Railco to install new clean burning diesel engines in their container lift cranes. This is an important step particularly as it affects the Bayview Hunter's Point community as well as how we treat the bay and the area around the bay.
- September 15, 2005 – The Environmental Protection Agency will be holding a Press Conference at Pier 30/32 at 12 noon to award a \$100,000 grant to the Port of San Francisco. Commissioner Hardeman will have the honor of receiving the check. This will allow the Port to take significant steps forward with our cruise liners to reduce the sulfur emissions from their engines. The Port is very proud to be at the forefront of this effort. Staff is indebted to many individuals beyond the EPA, the Port, CTEAC, the Bluewater Network, the community and others who played an important role in helping us with this endeavor.
- September 18-22, 2005 – Trade & Friendship Mission to Ireland. She will be accompanying the Mayor in his trade and friendship mission to Ireland for a week. Part of the activities will be a very extensive meeting with the Port of Cork as well as a luncheon with their harbor commissioners. They are very interested in how San Francisco has been able to grow its cruise ship business. We are interested in some aspects of their business including roll on, roll off as it affects automobile transport as well as they have a very significant facility. We are looking forward to using that relationship to think about new ideas for the Port of San Francisco. The Port of San Francisco is a sister port with the Port of Cork dating since 1964. They

will be traveling on to Dublin. It's her hope that she would be able to visit with the Port of Dublin. She hopes to report back to the Commission from best practices and lessons learned.

- September 27, 2005 - Port Commission Meeting at 2 p.m. Because the stakeholders of the Lend Lease partnership with respect to the cruise ship terminal will be in town from various areas of the world, she proposed to start the next Commission meeting at 2 p.m. The Port is pleased to sponsor a reception for the Commission and staff to have a face-to-face conversation with the Lend Lease partnership and to hear first hand how their project is going and to reiterate how the Port is committed to the project. The event will take place at 6:30 p.m. on September 27, 2005 at the World Trade Club.
- The TSA Round 5 grants were announced today. The Port of San Francisco was not included. This marks the second TSA grant which the Port was not granted any monies for our projects. The Ports of Oakland, Los Angeles, Long Beach and San Diego were awarded monies. The total amount awarded was shy of \$142 million.

4. CONSENT

- A. Request approval of Port/BART Agreement for gates, planters and parking restrictions within Ferry Plaza. (Resolution No. 05-60)

Commissioner Brandon disclosed that her company, Morgan Stanley, does business with BART and she recused herself from voting on this item.

ACTION: Commissioner Bierman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 05-60 was adopted.

5. ENGINEERING

- A. Request approval of contract modification to Contract No. 2693 Amador Street Improvements. (Resolution No. 05-61)

Ed Byrne, Chief Harbor Engineer, indicated that the Amador Street Improvement project provides a temporary access road from the current Amador Street terminus on the east end to the Piers 94/96. When completed, it will facilitate traffic flow and reduce industrial traffic on cargo way. The Commission authorized the award of Construction Contract #2693 to Gordon Ball, Inc. in the amount \$399,150.00 with a 10% contingency. Due to unforeseen delays and significant changes in the project construction scope, the contract was modified. After commencement of the work in December 2004, the Port received a notice of differing conditions from the contractor related to disturbance of more than 50 cubic yards of soil which would violate the Maher Ordinance. As a result of this notice, the Port required the Contractor to stop work pending resolution of the Maher Ordinance issue. The Maher Ordinance is a City Ordinance intended to protect the public and contractor from contamination resulting

from soil excavation process. It requires testing the soils in advance of excavating to determine any procedural precautions that may be required during the excavation. This test is usually done before contract bid and award, if required. The Port's subsequent investigation of the situation determined that there was an error made in the project by the project team in establishing the project criteria. The error was differentiating between net excavation and total disturbed soil. The bid documents were based on net excavation. Since there was no net excavation on the project, the Maher study was not commenced. Unfortunately the Maher Ordinance requires application if there was more than 50 cu. yds disturbed. This project exceeded that limit and therefore, required a Maher study to be performed. Staff has taken the following steps to make sure it doesn't happen again:

1. Have our Port environmental staff attend the monthly engineering meetings to present on the Maher Ordinance and its requirements. Staff now understands them fully.
2. Staff has added the Maher Ordinance requirements into the interdivisional sign off sheet as a separate item.

While the work was stopped to do the Maher study, Port staff requested the redesign of the roadway to limit excavation and to add several items into the project. The added items include:

- A drainage system consisting of new concrete apron at the junction off the new road and existing Amador Street, culverts and inlets;
- Raising the roadway elevation to match existing conditions and match existing elevations for tenant access; and
- Decreasing the steep grade at touchdown of roadway in Pier 94.

Port staff also decided to delete the access road to the future Pier 94 wetlands preferring to have access provided by parking and a pedestrian path of travel. The Contractor received the updated drawings and the Port's Resident Engineer negotiated a change order price with them and also provision for extending the contract time. The change order items include:

- Deletion of the access road to the future site of the Pier 94 wetlands, resulting in a credit to the Port in the amount of \$40,000.
- Contractor compensation for items not originally included in the contract and added to the work, such as addition of drainage system consisting of pipe culverts and inlets along the roadway. These items amount to additional compensation of \$24,159.20
- Contractor compensation for costs related to mobilization efforts, overhead, rework of partially completed items, and unforeseen delays of 295 days valued at \$74,365.90.
- Increase the contract duration by 335 days.

Most of the overrun will be funded from the Amador Street Roadway Project, CPO763 with any shortfall, approximately \$20,000, will be coming from CPO543, Facility

Maintenance and Repair. Mr. Byrne requested Commission's approval of Change Order No. 1 to Contract No. 2693 to Gordon N. Ball, Inc. in the amount of \$58,626.10 for a total revised contract sum of \$457,675.10 and an increase in contract duration by 335 days. Completion will occur by October 24, 2005.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 05-61 was adopted.

6. PLANNING & DEVELOPMENT

A. Informational Presentation on the "Findings of Fiscal Responsibility and Feasibility Ordinance" and recent amendments thereto (San Francisco Administrative Code, Chapter 29).

Byron Rhett, Deputy Director of Planning & Development, indicated that this ordinance was originally approved by the Board of Supervisors in June 2004 and amended in July 2005. The fiscal feasibility ordinance applies to projects proposed by the City for which:

1. The implementation and construction cost exceeds \$25 million; and
2. At least \$1 million in public dollars would be put into the project.

The amendment changed the definition of public dollars to include rent credits. Rent credit is a tool that's used in all of the Port's public/private partnerships as a way of stimulating private investments in our projects. The Port has two major projects that this ordinance might apply to: Piers 27-31 and the Embarcadero Hotel

There is a \$2.1 million rent credit that is part of the Mills Project. Staff, in conferring with the City Attorney, does not believe that the rent credits involved in the Stanford Hotel related to the potential environmental cleanup on that site meets the test for the second criteria. Staff does not believe that the fiscal feasibility ordinance applies to that development. Port staff and the developers are preparing a package to be submitted to the Board of Supervisors related to the Mills project and the hotel September 28, 2005. Once that's submitted, the Supervisors has 90 days to schedule a meeting within the appropriate committee to begin the process of determination as to whether or not the project is fiscally feasible.

Some of the major elements of the submission to the Board will include a project description. There will be an indication of the development cost, lease terms, financial benefits of the project and a resolution arguing that the project is fiscally feasible.

Commissioner Lazarus asked if there is a definition of fiscal feasibility. Mr. Rhett replied that it is not clear in the legislation about the definition of fiscal responsibility. This project will be assigned to either the Controller or to Harvey Rose's office to review the package of information that the Port submits and provides information to the committee and the Board for their consideration.

Legal Counsel Noreen Ambrose indicated that Section 29.2 of the Administrative Code lists the factors that the Board will consider. It is the Board's exercise of their judgment to conclude whether they determine the project to be fiscally feasible. Any decision is subject to reasonable standard. The court would accord the Board a lot of latitude in making that determination.

Commissioner Lazarus asked if there were any projects that have gone before the Board. Mr. Rhett replied that there haven't been any Port projects. Ms. Ambrose mentioned that the Recreation and Park Department's harbor project at the Marina went to the board and received the determination of fiscal feasibility. (Correction: This matter has not received a determination yet; it is still pending before the Board.)

Commissioner Lazarus asked clarification about the 90-day period. She did not know what the 90-day period meant because if they somehow fail to hold a hearing within 90 days, it is not deemed to constitute a determination that the project is fiscally feasible. Is there any deadline on when they have to do this or do they have to hold it indefinitely? Mr. Rhett replied that it was his understanding that they could hold it indefinitely. Ms. Ambrose indicated that there is a requirement in the ordinance that they hold the hearing within 90 days. They don't have to make a determination at that hearing. It is their law establishing that 90-day hearing requirement. If they didn't have any hearing within 90-days, potentially someone could bring an action to compel them to hold the hearing but they couldn't compel them to make a determination if they didn't feel they had adequate information at that time. There is no outside date or any provision that is deemed resolved if they don't act within a certain time.

Commissioner Lazarus indicated that the project could sit in limbo. Ms. Moyer mentioned that Port staff and the Mayor's Office of Economic Development staff brought that issue to the attention of the sponsor, which is Supervisor Peskin and he didn't accept those comments.

B. Informational Presentation regarding SB 1085, Infrastructure Financing Districts Legislation.

Byron Rhett, Deputy Director of Planning & Development, acknowledged Brad Benson for taking the lead in developing this legislation and pushing it through. Staff is focusing on the southern waterfront. Staff is moving forward with planning and development at Pier 70 and the backlands. Staff is looking at tools to finance those efforts. It came to our attention that there was an existing state legislation that would create an Infrastructure Financing District (IFD) and give the Port a tax increment tool similar to the tools that the Redevelopment agencies use. Based on that awareness, staff looked at that legislation and realized that it could be an important tool in the southern waterfront but not all aspects of it apply to the Port projects. With that understanding, staff developed a legislation to amend the existing IFD program, making amendments that would allow the Port to use that tool. In particular, the amendments that were proposed and what the SB 1085 legislation actually is as amendment to the existing financing tool which extends the time of the term of the district by an additional ten years to help facilitate financing. It also makes some clarifications related to the fact that the Port owns and manages trust lands and it made it clear that state trust lands could be included

within the IFDs. It also made clear what some of the uses of the funds could be, adding in references to piers, wharves, and seawall lots also to historic structures, environmental clean-up, seismic retrofit, to make sure that the challenges we face at Pier 70 which are different from the challenges we face in the northern waterfront because of the need to replace infrastructure and other aspects, to make sure that the tools would work and provide the support we need to address those particular challenges. The legislation was drafted and approved with Senator Carole Migden's support and signed by the Governor. Now that this legislation has been approved, staff is dealing with the EDAW Vision Plan and working on an RFP for the backlands. One of the first elements related to the approval of this district is to develop an infrastructure and financing plan for Pier 70 and the backlands. Those documents will eventually be approved by the Board of Supervisors.

Ms. Moyer indicated that the ability of the Port to issue tax exempt debt is controlled by the government code and the constitution in the event that we would be so lucky to have tax back bond power i.e. general obligation bonds. So far, under the government code to date to this piece of legislation, the Port's only real bonding tool was the ability to do revenue bonds which we currently do. The Port still has four more years of payment on the revenue bonds that was done many years ago. It requires a balance sheet of operating revenues to support that debt. In the market place, it requires a \$1.50 of net revenue for every \$1 of debt which the Port for many years had a hard time achieving that coverage on a sustainable basis. Staff has been looking around for other tools. This provides the Port under the State Government Code with yet another tool. However, the Port cannot move forward on that tool unless the Board of Supervisors agrees that possessory interest taxes that would otherwise float to the general fund can be reinvested into the Port. Contrary to Mr. Rhett's comments that the Port would have to form the district; it's actually the Board of Supervisors who can form the district. Whether that district would be from Aquatic Park to India Basin or China Basin to India Basin; it will be at the discretion of the Board. In all likelihood, staff will move forward with the planning process in the southern waterfront. This would not be the first financial mechanism that staff will use in terms of debt. Staff would like to see the same thing that is happening at Mission Bay where the development is starting. Once the development is certified for occupancy and goes on the tax roll, the revenues will come forward. It would take three years, after the entitlement and construction process. In the case of Mission Bay, the Redevelopment Agency issued a different type of tax bond called the Mello Roos Bond which the Port does not have the authority to issue. That bond will be refinanced by tax increment bonds when the tax increment starts to flow in. In all likelihood, this is a second tool for the Port rather than the first but the most important step is to set that boundary of the district so that any growth in taxes comes forward. For example, if we set a boundary that runs all the way to Aquatic Park, as the Exploratorium project comes to a fruition, the Hotel project or the Piers 27-31 come on board, those are monies that could be reinvested in the Southern Waterfront. If the boundary is simply from China Basin south, obviously, it will take a different revenue generator to kick start everything. This is very big news for the Port. It's 40 years of a tool for the Port. It's not a tool that is going to happen next year but rather it will happen 4 or 5 years down the road.

Ms. Moyer mentioned that the original legislation in the government code was created for the City of Carlsbad for the purpose of financing Legoland which they ultimately paid for with cash. As this bill moved through the legislature it became clear that there wasn't enough support for it statewide and it became a San Francisco-only bill. Staff is happy that the Senator stood strong for us and afforded us the right to have local control. We are disappointed that our fellow ports weren't given the same opportunity.

C. Informational Presentation regarding Air Quality at Heron's Head Park (HHP).

Carol Bach, Assistant Deputy Director for Environmental Health and Safety, indicated that the last time she was before the Commission on this topic she was making an informational presentation to the Commission about environmental conditions at HHP with a focus on soil and ground water quality. At that time, many questions were raised about air quality especially as it relates to emissions from the PG&E power plant which is adjacent to HHP. The Commission requested that she investigate it and report back to the Commission. She is not an air quality expert but in preparing the report she was fortunate to have the gracious support of others who are air quality experts.

One of the first and primary influences on air quality is local meteorology. We are fortunate in San Francisco in general and in the southeast portion of San Francisco, in particular, that local meteorology is a favorable influence on air quality. In general, air flows through the Golden Gate, through the City eastward, over the bay. In examining numerous sources of information about local meteorology including information from the Bay Area Air Quality Management District (BAAQMD), from meteorology monitoring conducted by PG&E, by SF Public Utilities Commission at their southeast waste water treatment plant and other sources, all collectively indicate that the prevailing wind direction from the southern waterfront is primarily to the east. It goes directly to the east more than half the time and in a generally eastward direction more than 80% of the time. Winds are generally stronger and more consistently eastward in the summer. Anybody who spent much time in the southern waterfront has experienced that during the summer, wind speed is generally slower and more subject to periods of stagnation and variable direction during the winter. The combined factors of the strength of the wind and the duration of time that the wind is blowing to the east ensure that the large majority of the volume of air flows eastward from the southern waterfront. An illustration of that is provided in two wind rose diagrams included in the staff report. Wind rose diagrams are a graphic representation of the strength and duration of time of a particular wind direction. The diagram on the left shows meteorology monitoring at Hunter's Point Power Plant. On the right which is closest to HHP and on the right data from the southeast waste water treatment plant. Both clearly illustrating the predominant wind flow towards the east. Both of those represent data collected over an entire 2-month period.

If the wind rose from the PG&E power plant which is the closest to the HHP is superimpose on a picture of what's at the Port, it gives an illustration of where pollutant sources on Port property may have impact. From the illustration, industrial sources on Port property are not really downwind from HHP or from the Bayview

Hunter's Point (BVHP) community. However, the PG&E Hunter's Point Power Plant is directly downwind from HHP.

The federal EPA defines a group of pollutants as criteria pollutants which means that those are constituents for which the EPA has adopted air quality criteria or air quality standards. Those pollutants are ozone, nitrogen dioxide, sulfur dioxide, carbon monoxide, airborne lead and particulate matter. Particulate matter is regulated into two categories. Particulate matter that is 10 microns or smaller is called PM₁₀ and particulate matter that is 2.5 microns or less is called PM_{2.5}. Particulate matter in those size ranges is of concern from a health impact because particulates larger than 10 microns are generally filtered out by the respiratory system. Smaller than that can be inhaled and the smaller fraction (PM_{2.5}) can be absorbed most deeply into the lungs where it can have a greater health impact. Some PM₁₀ is visible to the naked eye and some are not. The average size of PM₁₀ is about the size of a head of a pin. PM_{2.5} is generally not visible; the average diameter is around the size of 1/10 of the width of a human hair. This is not the dust that you see driving by or the dust that you see that falls out on your car. It's the same category of material. The CA Air Resources Board has adopted a more stringent standard for PM₁₀ than the federal standard. The BAAQMD operates ambient air quality monitoring stations throughout the state. Ambient air being all outdoor air. These monitoring stations are designed to be representative of air quality in a large geographic area. There is a BAAQMD monitoring station at 17th and Arkansas Streets, referred to as the Potrero Monitoring Station. Monitoring at the Potrero Monitoring Station finds that air quality consistently meets federal standards for all of the criteria pollutants but occasionally exceeds the more stringent State standard for PM₁₀.

A little over a year ago, the Department of the Environment installed a similar ambient air quality monitoring station in the BVHP community. Their project is called BayCAMP or the Bayview Hunter's Point Community Air Monitoring Program. They have now completed 12 full months of ambient air quality monitoring and have found similar results to what BAAQMD finds at the Potrero Monitoring Station which supports the idea that the BAAQMD station is truly representative of the large geographic area that they intended it to be.

There are industrial operations on Port property in the vicinity of HHP that are sources of air pollutants. This include a batch plant concrete crushing operations, sand handling facilities and other facilities that generate diesel exhaust for running combustion engines. There are also a lot of unpaved roads in the area. For the last several years, the Port has been doing visual monitoring of these industries to ensure their compliance with the air quality mitigation measures in the Southern Waterfront EIR which are incorporated into the leases for all of those facilities. Our inspection has found that the facilities are generally in compliance with the mitigation measures. There have been cases where we have found needed improvements and we were able to communicate that to the tenants and monitor to make sure they implement the improvements. One of the most significant findings of these visual observations is that the primary source of dust in the area is unpaved roads and driveways. Paving of the Amador Street roadway extension will go a long way towards mitigating dust in the area. However, dust and particulate matter from the industries in the vicinity on the

southern waterfront on Port property are not likely to impact HHP because of the wind direction, the size of the emissions that the industries produce. They generally settle out very close to the source and would not likely be transported to HHP. The other sources that loom large in people's minds are the power plants at Hunter's Point and Potrero. As part of an environmental impact analysis that PUC has undertaken, they have contracted with Sierra Research and Air Pollution Research, an engineering firm, to do an analysis of air pollutant emissions from the two power plants.

The slides attached to the staff report illustrate some of their findings. The first shows the maximum projected 24-hour average concentrations of PM₁₀ and PM_{2.5} from the two power plants under current condition. For the power plants, all of their PM₁₀ emissions are 2.5. In this case, they are essentially the same. These models are assuming worst case weather conditions. The emissions are modeled as if they were occurring during the winter when winds are slower and more variable. They show that the highest 24-hour average concentrations under worst conditions are still far below the federal and state air quality standards. However, it is interesting to note how the emissions migrate from the source. It is also interesting to note that even under current conditions, the emissions from the Hunter's Point Power Plant don't even register on their scale of illustrating PM concentrations. Partly because the operations at Hunter's Point Power Plant have been greatly reduced in recent years. They've reduced operations by 90% over the last ten years. In the last year, it has been operated at approximately 30% of its rated capacity at the power plant. The next figure shows the worst case scenario for emissions from Potrero and Hunter's Point Power Plant combined. It illustrates generally eastward transport of pollutants but there are some hot spots on the tops of the hills in Hunter's Point and Potrero areas. The maximum concentrations are in the range of 14-18 micrograms per cubic meter of air compare that with the most stringent standard of 50 micrograms of cubic millimeter of air. The illustration on the right shows the projected emissions after the SFPUC energy reliability project is completed and Hunter's Power Plant has shut down and some of the electric generating capacity at Potrero has shut down. There is a big difference in emission scenario. The next illustration shows annual average nitrogen oxide concentrations. It's an annual average and therefore reflects the more typical weather conditions experienced with the predominant eastward transport of pollutants. In this case, in an annual aggregate, emissions are generally migrating eastward as predicted.

As part of the work that PUC is doing in support of the energy reliability project, they have recently installed 5 new ambient air quality monitoring stations that have just recently begun operating and will be following those as they gather data. That will be a great source of information for the Port about what ambient air quality really is like in the area. There certainly can be significant local variations in air quality depending on proximity to certain types of air pollutant sources. This will be another source of good information for the Port about air quality in the southern waterfront area.

In conclusion, looking at all of these factors, meteorological conditions, where pollutant sources are located, what those pollutants are and the results of ambient air quality monitoring in the area., all of that information indicates that air quality at HHP is not likely to be exceeding state or federal air quality standards. However, it also

illustrates that the closure of the Hunter's Point Power Plant and portions of the Potrero Power Plant will result in significant reduction in air pollutant emissions. She acknowledged that people's concerns about air quality in the southern waterfront and particularly from the power plants is very real. She hopes that the eminent closure of these power plants will help assuage some of those concerns.

In response to Commissioner Bierman's inquiry about the closure of the power plants, Ms. Carol replied that PG&E is under orders from the CA State Independent System Operator to flip off the switch at Hunter's Point Power Plant and stop operating as soon as two other projects that are required to provide reliable electric power are completed. Both of those projects are underway and both are on track for completion by mid-2006. We are looking at a 9-month horizon on achieving closure of the power plants.

Ben Francisco, coordinator for all the restoration and environmental science program at Heron's Head Park, commented that through all the years of running these programs, through all the numerous students and teachers and community members visiting the park, there has never been one asthma attack.

Karen Pierce, resident of BVHP and chair of the Board of the BVHP Community Advocates, thanked staff for preparing this report. It helps them to relax a little bit. She pointed out that what we have here is what George Bush would call "sound science." Yet, BVHP continues to have the highest rate of asthma hospitalization in any neighborhood in San Francisco. She urged the Port Commission to use the precautionary principles when making decisions about land use because even though the science says otherwise, their health shows something different.

Commissioner Bierman asked if Ms. Pierce is worried about the park, even though the figures show otherwise. Ms. Pierce replied that she is not worried about the air quality on this park in particular. She's concerned about the air quality throughout the neighborhood. When they look at all of the other activities in the neighborhood and take the cumulative effect, they have a very sick community. These reports show what is happening in one particular area. She complimented staff because they have looked at a much larger picture than they usually get. The data says everything is okay because that's what the standards are right now. They go by those standards which is using a risk assessment model that doesn't protect health. Her comments are not in particular about air quality on Heron's Head Park but in general that the wind may be blowing to the east and we may be getting closure of one power plant and hopefully both of the old power plants but that still isn't addressing the fact that the community has high rates of hospitalization for asthma which they know occurs as a result of PM pollution.

Commissioner Brandon thanked Carol Bach for the informative presentation. It all depends on how you spin it and how you look at it. It's hard to imagine that the air quality jumps over Heron's Head Park to something right next to it not having effect. Everybody knows that the issues regarding soil contamination and air quality are real and present. It's a matter of whether we want to move forward or not.

7. NEW BUSINESS / AGENDA SETTING

Ms. Moyer indicated that in the agenda setting there are a number of items which the Commission has seen for some time. We hope to meet the dates that are listed on the agenda; however, they are simply our best guess and best target. She highlighted the Fisherman's Wharf Berthing Rates item. The fishermen are currently out salmon fishing which has proved to be a good season for them. We are still talking to them about when they may return so they can be present for a Commission meeting. It may or may not be heard at the next Commission meeting. We deliberately have held this item so that they can participate. The meeting on the 27th will be from 2 to 6 p.m. because of our commitment with the Bryant Street Piers group that will be in town from all over the world.

Commissioner Bierman apologized from coming in late. She noted the help that Senator Carole Migden and Governor Schwarzenegger provided regarding Senate Bill 1085. She asked that the Commission personally thank both the Senator and the Governor for their help. Ms. Moyer indicated that the Commission did thank Senator Migden but have not done so for the Governor. Ms. Moyer noted that the Governor's staff, Barbara Kaufman, was extremely helpful in championing our cause and why this was so important for us locally. She's convinced that without her help in explaining the local issues to the Governor's office, we wouldn't be where we are. Staff will facilitate the commendations for the Senator and the Governor for the Commission.

Regarding Hurricane Katrina, Commissioner Hardeman commented that the fireboats were very active during the rescue efforts. It highlights how important having fireboats are. The Port of Oakland should reconsider activating their fireboats. The importance of a fireboat to a community like ours is highlighted by what happened at Katrina.

Ms. Moyer commented that was a very good point. She asked the Commissioner to make that point to the budget analyst during our budget process. We also had several tenants including Hornblower who made overtures to FEMA and others to donate surplus vessels or any assistance they could provide in New Orleans.

Commissioner Brandon nominated Peter Dailey to represent the Port Commission as a delegate for the American Association of Port Authorities conference in Tampa, Florida from October 23-27. Mr. Dailey has been doing a great job and he is a big reason that we have a lot of maritime success here at the Port. The Commission approved his appointment as the Port's delegate to the conference.

Ernestine Weiss asked about the item on the forward calendar regarding the Muni Bus shelter contract. Ms. Moyer replied that item will be coming forward to the Commission to renew an existing contract where the MTA provides for those shelters along the Embarcadero for the F-Line.

Ernestine Weiss asked about the Rincon Park Restaurants project. Ms. Moyer indicated that this item would be for a presentation of the project design.

8. PUBLIC COMMENT

Dana Lanza, Literacy for Environmental Justice, applaud the Port of San Francisco and other City agencies for doing due diligence on the matter of environmental health at the park. As an environmental health and justice agency, protecting people in the community is their mission and their number one concern. All of the conversation that has happened over the summer and in previous months is the kind of precautionary principle as Karen Pierce said that they want to employ before making decisions. The planned construction for the living classroom will begin right about the same time that the Hunter's Point Power Plant is slated to be closed. This project is exactly what they are trying to do at BVHP and in the southeast San Francisco which is to provide model and inspiring projects that will show people that the road is really being built. They will reach their end goals of revitalizing this community. In lieu of the fact that they were hoping to come before the Commission today, many members of the public wanted to speak as soon as possible. In addition to the 17-18 letters of support they've provided with proposals they submitted to the Port, they have additional letters of support and they continue to come in. They want to avail themselves to continue this discussion and answer any questions in the upcoming weeks.

Jennifer Clary, San Francisco Tomorrow, indicated that this has been going around the block for sometime. They wholeheartedly support the living classroom at Heron's Head Park. One of the big issues that come up whenever they talk about open space on the southern waterfront is maintenance. How do you keep people from dumping all over the waterfront? While this is a great educational opportunity, it's also a great example to help the neighborhood and help maintain our parks. Everyone's aware about the problems we've had with warm water cove and the Candlestick Point Recreation area. She's looking forward to this being a model for both. She looks forward to the Commission's favorable vote and to getting on with the project.

Melanie Grossman, volunteer with the Network for the Elders, knows that a lot of the focus has been on the young people which is wonderful for Heron's Head Park. However, seniors are also using the park and are looking forward to having a resource of a building that they can go into in bad weather. The seniors are very interested in their health; they are physically active. They are looking for great places to walk. The seniors have been using HHP in cooperation with LEJ.

Anthony Khalil, Urban Service Project, indicated that he has been working at HHP as an intern. He was drawn on his own personal accord to the park itself because it screamed as a place for healing, a place for transformation. The waterfront has been a place of development of industrial uses. With so many natural occurrences happening not only in this country but international too that we need to educate our community especially the BVHP about the sustainability of developments along our waterfront. HHP is the perfect opportunity for a resource for the community. He is not representing sound science. He is representing the need for this living classroom in the community, the City that is a mecca of forward thinking and progressive thinking for the future. When development was brought upon on the southeastern side, there was no thought of future generations to come. The sustainability and social justice aspect of development was left out. This is an opportunity for us to take that back. The building of this resource center itself will not only bring healing to come but it will bring empowerment to the community which is very much needed. All science aside, working at this place, working with the community members,

seeing they are hungry for learning about issues of sustainability for our future, social justice, what better than to build a resource center in an area that is so hungry for this. In an area that also reflects what they can stray away from and look towards the future as they see with the center that they are trying to build. It's where they want to put it. Follow the natural landscape so they can build the classroom.

Recheal Genocchio, resident at BVHP, indicated that her dad used to take them at HHP when it was a dump. He always told them to look at things to see if it could be changed. The living classroom would change the neighborhood's outlook. She brought her kids to the meeting to show the Commission that children are part of the community as well and they should be able to speak out for what they deserve.

Naya would like to have the living classroom in her neighborhood because she has asthma and it's cold.

Nancy Abdul-Shakur, Literacy for Environmental Justice, concurred with Anthony's comments that HHP is a place of healing. When she was 14 years old, she started working with LEJ. She remembered going into HHP when it was barely being restored. It was a beautiful place and there was nothing there. All you could see was the power plant. Seeing this project come to life and seeing all the involvement of the community is a good thing. If it wasn't for the community, they wouldn't be here. HHP is the perfect place to put a living classroom because it will be a healing place not just for the community, not just for the youth or elderly but other people who visit the park and see how long it took for them to build something like that. Their community deserves to have a place where the community members and the youth will come to learn about their own community. She supports the living classroom and she hopes that the Commission supports it as well.

Dan Dodt, Bayview Hunter's Point PAC, indicated that this is a living park. If the Commission takes the opportunity to go to the HHP, breath the fresh air and look at the bird life, it's a terrific opportunity to expand that with a living classroom. There isn't anyone that would advocate for this park in a cavalier fashion with respect to the environmental risk. We need to be careful about the science and they have been. We need to be careful about the studies that had been done on the soil, etc. He believes that the building itself thread very lightly on the land which is a major aspect of the construction project. Someone alluded to the Katrina victims earlier. As a New Orleans native, he was struck by the national response to disgrace because of the indifference to poverty. This living classroom will allow them to take a step to recognize that young children and the elderly in an underprivileged community can be supported in a positive way. This is just one piece of very significant things that will happen in the Bayview in coming years. The light rail is a terrific opportunity. There is economic development planning. They need to be careful about how that is done. They support many of the homeowners who have been there for decades. This is one piece which will support the Bayview in a positive future. He hopes that the Commission will approve the lease when the time comes.

John Solomon, lead gardener at the park, indicated that being at the park everyday made him think that it's not a toxic place at all. It's a beautiful place. It changed his life. He enjoys learning about new things while being in a natural setting. He wants to learn more about native plants and the native history of the bay. The living classroom will be a great

addition to park.

Michael Hamman, resident of the bayview and member of the Hunter's Point Project Area Committee and member of SWAC, indicated that it's important that the Commission and the Mayor understand the truth. The truth is that the overwhelming majority and the people in their neighborhood support this project. They support the classroom and the benefits it will provide to their children, to their neighborhood and to their community at large. This is not about toxics. Everybody who can read has read the report and knows that there is nothing significant out there. The controversial part of this, the opposition is logically inconsistent. This classroom will do nothing to change the use that is currently going on at HHP. The kids will still go out there for classes, for educational activities. This classroom will provide a shelter for them. It will provide protection from the elements and provide protection from any deleterious materials that may be out there. This is about some misguided individuals who have a personal agenda. It is not the majority of the community. The majority of the community wholeheartedly supports this. The SWAC supports this and a long list of people support this. This is something they want to happen.

Connie Shahid, LEJ, feels that everything that goes on at BVHP, the pollution and violence, the youth have been putting up with all that and they deserve a place where they feel safe, some place where they can learn about their community and the environment. It's not just going to be used by the youth but also adults and the elderly. It will be a big community center. This place is highly needed at BVHP. She has attended a lot of meetings and has not heard any valid reason why this building should not be built.

Derrlyn Tom, Mission High School Teacher, indicated that she has a real investment with the living classroom. Many of her students live at the BVHP. She agreed with the previous speaker that many of them deserve something like this to have a vested interest in what is in their community. This will be a positive thing for them to know that there is something like the living classroom. She started bringing students at HHP years ago when LEJ first started and when HHP was still called Pier 98. It's been wonderful for her as a teacher to see her students learn and grow from that and take some ownership on what they could do out there. This classroom will be such a vital link for them not only with their community but with the environment so they can actually learn about. She cannot teach everything like that in terms of their experiences in her classroom. To take them into the environment, into the community and give them some ownership and make them responsible and real patrons of the environment is really important. As a teacher, this would help in order for her to make sure her students are more successful. Give them something where they can succeed and not always fail.

Laura Crichfield, former SFUSD teacher, indicated that she is a strong believer in the role that the environment can play particularly for students who don't have access to quality program and services. Most recently working with the Bayview Learns Program, they have been taking teenagers from (14-18 years old) from BVHP to Heron's Head where they have engaged in restoration project. It has been a vital part of the entire Bayview Learns Program. Without access to outdoor learning experiences in their own community, it's difficult to engage them and wanting to become stewards. The people who live in the most environmentally disadvantaged neighborhood are the ones who most have the potential to change those. To find alternatives to the ways that we have harmed the environment and

thus harmed one another. These are the most important students and young people to have and to have the resources of the living classroom in their own community will only further their capacity and their interest, their neighborhood, their own health and well being and the environment as a whole.

Chris Earle, resident in BVHP, supports the living classroom. For the youth at the BVHP, anything that is positive is good. They had so much negative things going on in the community. The living classroom will give them something to do and it's all positive. They are learning about the environment. They will play a major role in the school.

Gerald Ward II spoke on behalf of the young people of the BVHP. There are a lot of opinions as to what the solution will be in any debate. The living classroom will be a great asset to the community. Anything that is a physical space that will allow young people to grow and thrive in any positive way, he supports. Anyone who has been to the BVHP area on Third Street will know that there are tremendous obstacles for young people and their parents. He supports the living classroom. He asked once the living classroom is built, who will be able to live or learn in the classroom? The opponents of the living classroom aren't attempting to thwart one of the chief issues in the BVHP area at its source which is gentrification. What he supports is "and solution" not an "or solution" where the folks who live there now can co-exist with the folks who are moving in. Both of those parties can continue to grow in a community that both will thrive and learn within the living classroom. The folks at LEJ are working diligently to grow the living classroom into something that the whole community can benefit from both who are there now and those who will be there in the future based on the concept of sustainability so that the land at HHP and the living classroom will be sustained.

Karen Pierce commented that she supports the living classroom, as chair of SWAC and coordinator of BVHP Health and Environmental Assessment Task Force which is a partnership of the DPH, UCSF, community residents and other community organizations. She hopes that the Commission will approve it at the next meeting. When she moved back to BVHP 25 years ago, she admitted that she used to go to HHP and sneaked through the broken fence and took her kids' bikes and threw them over the top of the fence so they could use those paths to ride their dirt bikes. It was wonderful. It was full of debris. It was hazardous. There were homeless people that would come up the bushes and scare the kids. She was constantly patrolling the area. What we have now is so much different and it's open to the public. She believes that putting the classroom there is just one more step in the evolution. It's really more of a step backwards. In the 50s, that area has open access. We are simply making it more accessible. There were a lot of questions whether or not it was safe. The main reason she is supporting this is if in fact we are going to address those health problems that she was alluding to earlier, they will do it through building the leadership that will be built at the classroom. This is just more in the progression towards making sure that we have a clean, healthy neighborhood.

Shante Hudson, works for LEJ, supports the living classroom. She lives at BVHP and if she didn't work for LEJ, she would attend the living classroom to learn more about the environment. BVHP is a very polluted area; people would like to learn more about their environment. This is a big task to try to clean the environment and educate people at the same time. The living classroom will be the first step towards helping the community.

Coltyce Sanders, resident of BVHP, feels that the living classroom is a good idea because it gives the people in the neighborhood an easier access to the information they need in order to learn more about their neighborhood. He feels that this classroom will help the students and a lot of people. This is something the neighborhood has been asking for a long time. A lot of people complain about stuff in the neighborhood. With this classroom, they actually know what they are breathing and what is causing their illness. They have direct access to it in the classroom. This will not pollute the environment.

Commissioner Bierman commented that this is one of the most positive, exciting things that have come before the Commission to date. Everybody has worked hard to bring it to this point. She knows that they will have many hours of learning and having fun. She wished them all the luck in the world.

9. EXECUTIVE SESSION

- A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 4:50 p.m., the Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

- a. Discuss existing litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (3 cases):

- Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.
THIS ITEM WAS TAKEN OFF THE CALENDAR
- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.
- Anthony D. Fotherby v. Port of San Francisco; San Francisco Superior Court Case No. CGC05 444283, filed August 23, 2005.

Discussion and approval of settlement of litigation seeking damages for personal injuries and alleging premises liability. Proposed settlement of litigation upon terms which include Port's payment of \$6,000 and Department of Public Works' (DPW) payment of \$6,000, in exchange for plaintiff's dismissal of litigation, and full and final release of claims.

- b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case as Plaintiff)

At 5:25 p.m., Commissioner Brandon moved approval to reconvene in open session; Commissioner Lazarus seconded the motion.

ACTION: Commissioner Lazarus moved approval to not disclose any information discussed in executive session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

Merylin Wong, Historic Ships Memorial at Pacific Square, provided the Commission Secretary copies of the recent article published in the Chronicle last week as there is a connection drawn between the community, the Port and the battleship USS Iowa. It still is a congressional topic in Washington. They earlier alluded to the importance and the value of a vessel in the event of a catastrophe for purposes of crisis response. The Port has hired a director of homeland security. She urged the Commission to consider where homeland security stops. Sometimes, homeland defense doesn't start soon enough. She asked the Commission to consider the USS Iowa another value added crisis response resource in its possible decision to berth the ship at the Port. They have the first community rally at City Hall today, urging the Board of Supervisors and Mayor Newsom to support the berthing of USS Iowa at the Port of San Francisco. There will some press coverage not only in print media but on Channels 4, 5 and 7 tonight. They are working on a new resolution that includes a provision that speaks to the project as coming at no cost to the City nor the Port of San Francisco.

Bud Wilson, HSMPS, indicated that they didn't fare too well on July 12, 2005 on their Iowa resolution with the Board of Supervisors. They know where they went wrong or what was omitted. A number of the supervisors expressed concerns that were inadequately or fully addressed at the resolution. They took an action to prepare an entirely new resolution which will be introduced by Supervisor Fiona Ma, Sean Elsbernd and Supervisor Alioto-Pier. They had six assured votes by the Board. Three had a change of heart or direction. For example, Supervisor Peskin had personally assured him, not once but twice, that he will support the Iowa resolution. Obviously, he had to go with the group as a whole. A number of things that were brought up were legitimate and they need to be addressed. There was concern about the "don't ask, don't tell" policy. A couple of the supervisors couldn't support the resolution because it reminded them of the injustices for the gay and lesbian people that have served in the armed services. They have now taken an action to correct that or expand the resolution to use more specific language that fully recognizes and commemorates the service of every man and woman that served in the armed services, without regard to race, color, creed, religion, sexual orientation, etc. They will attempt to satisfy the financial status worthiness of the historic ships memorial. He emphasized that the City has no financial obligation whatsoever in bringing the ship to the Port. It will not cost them any money but rather it will make money for the City. He urged the Commission to consider issuing a statement of a declaration of support that clearly defines a position of support for the Iowa.

ACTION: Commissioner Brandon moved approval to reconvene in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 5:35 p.m., the Commission withdrew to executive session to discuss the remaining executive session items:

- (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

- a. Property: Pier 54
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*Water Transit Authority: Steve Castleberry
- b. Property: Pier 70
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*BAE Systems, Inc.: Ira Maybaum
- c. Property: Piers 27-31
Person Negotiating: Port: Byron Rhett, Deputy Director of Planning & Development
*Piers 27-31 LLC: Steve Jacobsen
- d. Property: The Embarcadero Hotel, at Embarcadero and Broadway
Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development
*Stanford Hospitality, Inc: Lawrence Lui
THIS ITEM WAS TAKEN OFF THE CALENDAR
- e. Property: Port property within the area located in the San Francisco Bay between Pier 72 and the northern most point of the Bay just south of the Richmond Bridge
Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development
*Trans Bay Cable LLC: Samuel Wehn

10. RECONVENE IN OPEN SESSION

At 6:52 p.m., the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Brandon moved approval to adjourn executive session and reconvene in open session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Brandon moved approval of the proposed Settlement Agreement in the litigation entitled Anthony Fotherby v. Port of San Francisco upon the material terms

set forth in the agenda for this meeting and upon such further terms approved by the City Attorney's office.

ACTION: Commissioner Brandon moved approval to not disclose any other information discussed in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

11. COMMUNICATIONS

12. ADJOURNMENT

ACTION: Commissioner Brandon moved approval to adjourn the meeting; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commissioner Hardeman adjourned the meeting at 6:55 p.m.

SAN FRANCISCO PORT COMMISSION

Wilfred Hsu, President
Michael Hardeman, Vice President
Sue Bierman, Commissioner
Kimberly Brandon, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax: 415-274-0412

AGENDA

(Please note the time of the meeting)

REGULAR MEETING

3:00 P.M. TUESDAY, SEPTEMBER 27, 2005

PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

1. CALL TO ORDER / ROLL CALL

2. APPROVAL OF MINUTES - September 13, 2005 Meeting

DOCUMENTS DEPT.

3. EXECUTIVE

SEP 23 2005

A. Executive Director's Report

- Report on the Trade & Friendship Mission to Ireland
- Report on the Port of Los Angeles' visit
- Secure Automated Inspection Lanes (SAIL)
- Fleet Week - October 7-10, 2005

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4. CONSENT

- A. Request approval to accept and expend \$3,200,000 in grant funds from the Federal Government through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) surface transportation reauthorization bill, and \$250,000 in grant funds from the Association of Bay Area Governments (ABAG) Bay Trail Project for the Illinois Street Intermodal Bridge project. (Resolution No. 05-62)

5. MARITIME

- A. Request approval of CTEAC recommendations regarding the feasibility of shoreside power and alternative air emissions technologies at the James R. Herman Cruise Terminal, Pier 30-32. (Resolution No. 05-63)

6. REAL ESTATE

- A. Request approval of Ground Lease with Literacy for Environmental Justice for the Construction, Maintenance and Operation of a Living Classroom Building at Heron's Head Park and Related Transaction Documents. (Resolution No. 05-64)

7. NEW BUSINESS / AGENDA SETTING

- ◆ New Business
- ◆ Agenda Setting (Targeted Commission meeting, subject to change)
 - Request adoption of Hyde Street Harbor/Fisherman's Wharf Harbor Berthing Rate Increases for Fiscal Year 2005-2006 (October 11, 2005)
 - Request authorization to execute month-to-month lease with the Chinese Chamber of Commerce doing business as Southwest Airlines Chinese New Year Festival and Parade located at Piers 27 and 29 (October 11, 2005)
 - Request approval of lease with Barry & Associates at Pier 9, Suite 112 (October 11, 2005)
 - Request approval of lease with M.K. Think for Roundhouse One (October 11, 2005)
 - Request approval of amendment to Muni Bus Shelter Contract (October 11, 2005)
 - Informational Presentation regarding Port's study of on-street parking patterns (October 11, 2005)
 - Informational Presentation on TransBay Cable Project (October 11, 2005)
 - Informational Status Report regarding the Illinois Street Bridge Project (October 25, 2005)
 - Informational Presentation on Rincon Park Restaurants design development (October 25, 2005)
 - Request approval of Pier 38 Settlement Agreement (October 25, 2005)
 - Request approval of lease with Java House (October 25, 2005)
 - Request approval of lease amendment with Inspection Services at Pier 26 (October 25, 2005)
 - Request approval of Pier 64 Cost Reimbursement Agreement (November 10, 2005)
 - Review of proposed design for Abraham Lincoln Brigade monument (Date to be determined)
 - Request approval of MOU with San Francisco Public Utilities Commission for Solar Project for Pier 96 (Date to be determined)

8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):

- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.
- As Plaintiff: The Port asserts a contract and administrative claim against West Bay Builders/D. Stewart Thompson ("Contractor"), for breach of contract and violation of City ordinances relating to Contractor's performance of Contract Nos. 2622 and 2636. Consideration and approval of proposed settlement of Port's claim whereby contractor shall agree to release \$307,500 in escrow funds to the Port, and the balance, approximately \$83,104, to Contractor. A copy of the proposed settlement agreement is available from the Executive Secretary for the Port, pursuant to San Francisco Administrative Code Section 67.12(b)(3).

b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case as Plaintiff)

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

a. Property: Pier 9

Person Negotiating: Port: Peter Dailey, Director of Maritime

*San Francisco Bar Pilots: Capt. William Greig

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding
real estate negotiations for Port property located at Pier 9.

- b. Property: Port property within the area located in the San Francisco Bay
between Pier 72 and the northern most point of the Bay just south of the
Richmond Bridge
Person Negotiating: Port: Byron Rhett, Deputy Director, Planning &
Development
*Trans Bay Cable LLC: Samuel Wehn

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding
real estate negotiations for Port property within the area located in the San
Francisco Bay between Pier 72 and the northern most point of the Bay just
south of the Richmond Bridge.

10. RECONVENE IN OPEN SESSION

- A. Possible report on actions taken in closed session pursuant to Government Code
Section 54957.1 and San Francisco Administrative Code Section 67.12.
- B. Vote in open session on whether to disclose any or all executive session
discussions pursuant to Government Code Section 54957.1 and San Francisco
Administrative Code Section 67.12.

11. COMMUNICATIONS

Communications to the Port Commission received from September 8, 2005 to September
22, 2005:

- From Dana Lanza, Literacy for Environmental Justice, regarding Living Classroom at
Heron's Head Park
- Tim Little, The Rose Foundation, regarding the Living Classroom Project
- From Mishwa Lee, Adline Faafiti, Cristina Valdez, regarding the Living Classroom
Project
- From Sandra Niman, The School House, A Home Away Program, regarding the Living
Classroom Project
- From Merylin Wong, newspaper article regarding the USS Iowa
- From Alyonik Hrushow, Director of San Francisco Tobacco Free Project, regarding the
Living Classroom Project
- From Stacy Selinger, David Baker + Partners, Architects regarding the Living
Classroom Project
- From Erin Farrell, regarding the Living Classroom Project
- From Alex Lantsberg, regarding the Living Classroom Project
- From Sean Karlin, regarding the Living Classroom Project

- From Dr. Sudeep Motupall Rao, regarding the Living Classroom Project
- From Richard Laufman, regarding the Living Classroom Project
- From Arlene Rodriguez, Program Officer, The San Francisco Foundation, regarding the Living Classroom Project

12. ADJOURNMENT

SEPTEMBER/OCTOBER 2005
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
Sept. 27	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Oct. 11	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Oct. 25	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. *The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.* Contact Amy Quesada at 274-0406.

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Central Waterfront Advisory Group meets monthly on an as-needed basis generally on the 3rd Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or via email @ Mark_Paez@sfport.com.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets jointly with BCDC's Design Review Board on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. or the Committee meets as needed on the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625.

The Port Permit Appeals Committee meets regularly on the first Thursday of June and December of the year. For further information contact Ed Byrne at 274-0570 or Dan Hodapp at 274-0625.

ACCESSIBLE MEETING INFORMATION

Ferry Building: The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

- A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
- B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets.
- C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. & Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine/>

Lobbyist Registration and Reporting Requirements. Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.



MEMORANDUM

September 20, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique A. Moyer
Executive Director

Tim Ah
FM

SUBJECT: Authorization to Accept and Expend \$3,200,000 in grant funds from the Federal Government through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) surface transportation reauthorization bill, and \$250,000 in grant funds from the Association of Bay Area Governments (ABAG) Bay Trail Project for the Illinois Street Intermodal Bridge project.

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE EXECUTIVE DIRECTOR TO ACCEPT AND EXPEND GRANT FUNDS FROM THE FEDERAL GOVERNMENT AND ABAG BAY TRAIL PROJECT.

Executive Summary

The Port has received \$3.2 million in federal funds for the Illinois Street Intermodal Bridge project ("Project") through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) surface transportation reauthorization bill that was signed into law on August 10, 2005 by President Bush. The Port has also received \$250,000 in Bay Trail funds from the Associate of Bay Area Governments (ABAG) Bay Trail Project for closing a gap in the Bay Trail across the bridge. These funds will provide financing to complete the southern approach to the project, including roadway, signalization and freight improvements.

The SAFETEA-LU earmark will be administered by Caltrans. The Port is currently working with both the Metropolitan Transportation Commission (MTC) and the San Francisco County Transportation Authority (SFTA) to amend the federally required Transportation Improvement Program (TIP). The TIP is a comprehensive listing of all Bay Area transportation projects that receive federal funds that is rolled into the Federal Statewide Transportation Improvement Program (FSTIP) through the Caltrans Office of Federal Programs. After review and approval by

This Print Covers Calendar Item No. 4A

Caltrans, both the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) must review and approve the FSTIP. Projects must be in the approved FSTIP before funding authorities can obligate funds. Some of the ABAG Bay Trail grant will be used as part of the required match to the SAFETEA-LU funds.

Concurrently, it is required that both the Port Commission and San Francisco Board of Supervisor's authorize the acceptance and expenditure of the federal funds and ABAG Bay Trail Project grant as requested herein.

Project Description

The Illinois Street Intermodal Bridge ("Bridge") project is located in the Bayview Hunters Point Community within the Southern Waterfront of San Francisco and was originally identified as part of the Port's overall plans in 1985 to modernize its container handling facilities along the southern waterfront in the area currently known as Pier 80 and Piers 94-96. This new Bridge will provide efficient, direct freight rail access, that is currently lacking, to the Pier 80 cargo terminal, as well as provide an intra-terminal transportation connection between the Pier 80 cargo terminal and the southern cargo terminals at Piers 90-96, south of the creek through the extension of Illinois Street. The Bridge will provide additional benefits to the public by providing bicycle and pedestrian access across it and by relieving traffic congestion projected to increase on the Third Street corridor because of the Third Street Light Rail project.

Project Status

Due to the complex funding for this Project, the work to complete it has been and will be broken into separate contracts. The Port completed improvements to the block of Illinois Street between Marin and Cesar Chavez Streets in 2003. The majority of the design for the bridge and approaches as well as construction of the bridge, north approach, and freight rail track on Pier 80 will be completed under Contract No. 2680 with Shimmick Construction Company, Inc. ("Shimmick"). The south approach was not awarded to Shimmick initially due to the lack of available funds. Though the Port has recently received the necessary funding to complete the south approach with the SAFETEA-LU earmark, the Port can not award Shimmick the south approach as a change order to their contract because it is a design-build contract; federal funds can not be used on design-build contracts. Therefore, the Port must award a separate construction contract that Caltrans will approve to complete the south approach and remaining elements of the project with the SAFETEA-LU earmark and other federal grant funding recently received by the Port. Port staff are currently working with Caltrans and their process to secure the grant funds and to get this contract prepared for bidding. Concurrently, Port staff are working with the ABAG Bay Trail Project to secure the grant funds for closing a gap of the Bay Trail across the bridge.

Port staff anticipates the following schedule for completing construction of the south approach:

Interdivisional Signoff on Final Design	1/6/2006
Commission Approval to Advertise	2/28/2006
Bid Opening	4/6/2006

Commission Approval to Award	4/18/2006
Issue Notice to Proceed (NTP)	4/24/2006
Substantial Completion	8/21/2006
Final Completion	9/30/2006

The south approach is scheduled to be completed at the same time as the bridge and north approach (end of September 2006).

Project Cost and Budget

The estimated cost for the south approach and the remaining pedestrian and landscaping improvements is \$4,520,000. The project elements are being re-evaluated against the Port's long-term plans for development in the area, so the estimated cost is being refined and may increase or decrease accordingly.

This remaining portion of the project will be funded as follows:

Funding Source and Amount		Required Match and Source		Project Budget
		Port Capital 2005-06	ABAG	
RBPP via MTC	\$ 750,000.00		\$ 92,696.63	
TEA-3 Earmark	\$ 3,200,000.00	\$ 642,696.63	\$ 157,303.37	
Totals	\$ 3,950,000.00	\$ 642,696.63	\$ 250,000.00	\$ 4,842,696.63

The \$3.2 million SAFTEA-LU earmark requires a 20 percent match by the Port in the amount of \$800,000. This local match will come from existing Port appropriations and the \$250,000 ABAG grant the Port has received for this project. With this earmark and the Commission's approval to accept and expend the SAFTEA-LU funds and ABAG Bay Trail Project funds, the entire project is fully funded.

Summary

Staff seeks Commission authorization for the Executive Director to accept and expend \$3,200,000 in grant funds from the SAFETEA-LU surface transportation reauthorization bill and \$250,000 in grant funds from ABAG Bay Trail Project for the Illinois Street Intermodal Bridge project. The proposed resolution also authorizes the Executive Director to execute an agreement, subject to approval from the City Risk Manager and City Attorney's Office, for the Port to indemnify and hold the MTC harmless against claims, damages and liability arising out of the Project.

Prepared By: Kathy Nakazawa, Project Manager
For Ed Byrne, Chief Harbor Engineer

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION NO. 05-62**

- WHEREAS, the Bay Trail Project was created for the purpose of selecting, designing, and implementing the creation of a continuous 500-mile recreational corridor around the San Francisco Bay for pedestrians and cyclists; and
- WHEREAS, the Bay Trail Project, administered through the Association of Bay Area Governments (ABAG), has awarded the Port of San Francisco \$250,000 to extend the Bay Trail across the Illinois Street Intermodal Bridge and connect two disjointed portions of the Bay Trail; and
- WHEREAS, the Safe Accountable Flexible Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) makes federal funding available for city roads and construction projects, and said funds are administered in California by the State of California Department of Transportation ("CALTRANS"); and
- WHEREAS, to be eligible for SAFETEA-LU funds, a project must be included in the regional Transportation Improvement Plan (TIP), which must then be approved as part of the larger Federal Statewide Transportation Improvement Plan (STIP); and
- WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for updating the TIP that includes San Francisco, and for forwarding it for approval and inclusion within the STIP; and
- WHEREAS, the Port is working with the MTC to amend the current TIP to include the Illinois Street Intermodal Bridge Project, identified by the MTC as Project No. 3541; and
- WHEREAS, through SAFETEA-LU, Congress has earmarked \$3.2 million for the Illinois Street Intermodal Bridge Project; and
- WHEREAS, the SAFETEA-LU earmark requires a match of twenty percent; now, therefore, be it
- RESOLVED, that the Port has identified the required matching funds, and is committed to providing them for this project; and be it further
- RESOLVED, that the Executive Director of the Port of San Francisco is authorized to accept and expend \$3.2 million in SAFETEA-LU funds through CALTRANS for the Port's Illinois Street Intermodal Bridge Project, as well as \$250,000 in Bay Trail Project Funds through ABAG for the same project, and is authorized to execute any documents required to enter into these agreements, including any amendments, augmentations or extensions thereof.

I hereby authorize that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 27, 2005.

Secretary



MEMORANDUM

September 20, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer *Time*
Executive Director

SUBJECT: Approval of Cruise Terminal Environmental Advisory Committee recommendations regarding the air quality conditions to BCDP Major Permit 5-03 regarding the feasibility of shoreside power and alternative air emission technologies for cruise ships berthing at the future James R. Herman International Cruise Terminal at Pier 30-32.

DIRECTOR'S RECOMMENDATION: APPROVE CRUISE TERMINAL ENVIRONMENTAL ADVISORY COMMITTEE RECOMMENDATIONS REGARDING THE FEASIBILITY OF SHORESIDE POWER AND ALTERNATIVE AIR EMISSION TECHNOLOGIES FOR CRUISE SHIPS BERTHING AT THE FUTURE JAMES R. HERMAN INTERNATIONAL CRUISE TERMINAL.

Background

The Port of San Francisco is developing the new James R. Herman International Cruise Terminal and Mixed Use Project at Pier 30-32 (Cruise Terminal Project). On March 25, 2003, as part of the Final Supplemental Environmental Impact Report (FSEIR) process, the Port Commission approved the transaction documents guiding the lease and development of the cruise terminal and adopted California Environmental Quality Act (CEQA) findings that discuss the significant environmental impacts of the Cruise Terminal Project. The findings indicate that proposed mitigation measures reduce some impacts to levels of insignificance and identify other certain unavoidable significant environmental impacts. The findings included a Statement of Overriding Considerations that specific economic, legal, social, and other benefits outweigh the significant effects on the environment. The CEQA findings also called for implementation of a Mitigation Monitoring and Reporting Program that includes, among other measures, establishment of air and water quality advisory groups to the Port Commission. These advisory groups would review potential additional mitigation measures for the air and water impacts of cruise ship activity at the cruise terminal and would provide recommendations to the Port Commission.

This Print Covers Calendar Item No. 5A

On June 11, 2003, the Port Commission adopted a resolution to establish the Cruise Terminal Environmental Advisory Committee (CTEAC). CTEAC, consisting of a wide range of stakeholders including the maritime/cruise industry, environmental organizations, regulatory agencies, and community groups, has met on a monthly basis since September 2003, to review cruise ship impacts to air and water quality and recommend additional feasible measures to the Port Commission to reduce those impacts.

On November 6, 2003, the Bay Conservation and Development Commission (BCDC) approved a resolution in regards to the Major Permit No. 5-03 for the cruise terminal project, imposing certain conditions regarding the potential cruise ship impact on San Francisco Bay air and water quality.

On September 28, 2004, the Port Commission adopted a resolution which authorized the Executive Director to enter into a contract with Environ International Corporation to conduct a feasibility study of shoreside power and alternative air emission technologies for a fee not to exceed \$50,000. On April 12, 2005, the Port Commission adopted a resolution allowing the Executive Director to amend the contract by increasing the contract amount by \$35,000.

The Port, in collaboration with CTEAC, has also been undertaking various approaches to reduce air emissions at the James R. Herman Cruise Terminal Project. The Port has developed a Cruise Ship Environmental Award program. This program promotes and recognizes vessels that reduce air and water pollution while operating in San Francisco Bay. An award will be given to cruise ships that exceed existing environmental regulations and industry standards to achieve greater protection of air and water quality. The three categories are: air emission reduction, wastewater treatment, and recycling and disposal programs for solid waste.

In February 2005, the Port submitted a grant application to the Environmental Protection Agency (EPA) requesting federal funds to cover the Port's costs of providing monetary incentives to cruise lines for using cleaner fuels on their ships in port to reduce air emissions. Cruise lines currently use cost-effective conventional Intermediate Fuel Oil while hotelling in port. This program would encourage the cruise ships that berth in San Francisco to use instead more expensive low-sulfur fuels, such as Marine Diesel Oil or Marine Gas Oil. On September 15, 2005, EPA announced an award to the Port of \$100,000 for its implementation known as the Cruise Liner Emissions Reduction Incentives Project.

In compliance with the BCDC Major Permit No 5-03 conditions, the Port Commission, on August 23, 2005, adopted a resolution approving the CTEAC recommendations regarding (1) on-shore wastewater treatment and (2) water quality monitoring for cruise ships to be berthed at future James R. Herman cruise terminal. Under this Permit, BCDC also requires submission of CTEAC's recommendations to reduce air emissions and the Port Commission's determination as to the feasibility of implementing those recommendations.

As noted above, the Port contracted with Environ International Corporation to determine the feasibility of shoreside power and alternative air control measures. The objectives of the Environ study were to (1) analyze the current and planned cruise ship operations and berth facilities; (2) identify four candidate (or "frequent flyer") cruise ships to evaluate the feasibility, emissions benefits and associated costs of the use of shoreside power, and (3) explore alternative air emissions control technologies while cruise ships are at berth to reduce hotelling and transit emissions. The Environ study examined the technical and cost feasibility of the shoreside power and discussed alternative air emission reduction measures. Because this was a conceptual study, Environ did not perform a detailed engineering study, but derived costs and general descriptions based on similar Princess Cruise Line installations in Juneau and Seattle. In assessing the overall cost effectiveness of shoreside power, the provider of the energy, the cost of that energy, and the allocation of the construction and operating costs are preliminary estimates. A summary of Environ's conclusions and recommendations are attached (Attachment A).

The complete Environ study is available on the Port's website (www.sfport.com) and at Port offices for review upon request.

Proposed CTEAC Recommendations to the Port Commission:

CTEAC supports the conclusions reached by Environ, the Port's technical consultant, that the shoreside power and alternative air emission technologies are technically feasible at the James R. Herman Cruise Terminal. Besides the inclusion of on-site shoreside power infrastructure, the Environ study did not identify any other feasible technologies requiring the incorporation of infrastructure with the project site.

CTEAC agrees that the air emission recommendations, noted below, be approved by the Port Commission in the permittees' report to BCDC. These recommendations include the feasibility of using lower emission fuels, cold-ironing (i.e., shoreside power hook-up), the prohibition of on-board incineration, and the identification, reservation and incorporation of infrastructure within the project site for emerging technology.

The Environ study did not include feasibility of on-board incineration since state law was enacted, effective January 1, 2005, to prohibit such incineration in California coastal waters. Accordingly, CTEAC agrees that a recommendation regarding on-board incineration is unnecessary.

CTEAC will be reviewing other additional measures to reduce air emissions at Pier 30-32 to determine whether such measures are feasible and may accordingly provide recommendations for consideration by the Port Commission.

CTEAC unanimously recommended that the Port take the following measures to reduce air emissions:

1. Support proposed California Air Resource Board (CARB) proposal to require use of (low sulfur) marine fuel containing 0.5% or less sulfur. Facilitate the use of low-sulfur fuel on

cruise ships while in San Francisco Bay through the Port's EPA-funded Cruise Liner Emissions Reduction Incentives Project, and continue to pursue federal and/or state incentive grant funds to reduce transit emissions as an interim measure until there are state or federal regulations requiring such low-sulfur content fuel. If CARB does not regulate the use of alternative fuels, the Port and SFCT will require the use of low-sulfur fuel at the dock if available and financially feasible.

2. Recognize and promote cruise lines that are committed to environmentally responsible operations through the Port's Cruise Ship Environmental Award program. The program recognizes cruise lines that install the best available engine, using emission reduction technologies, and/or the use of cleaner burning fuel so that emission reductions occur not only at berth but in transit between ports. Recognize and promote cruise lines that retrofit their ships to utilize shoreside power and commit to explore grant funding for these retrofits.
3. Coordinate with other West Coast cruise ports on their ability and timing to install shoreside power and their ability to provide a financial incentive to cruise lines to retrofit ships for shoreside power. Develop an incentive program that would ensure maximum usage of the shoreside facility for cruise ships that can hook-up to shoreside power.
4. Acknowledge that while shoreside power is technically feasible and the most effective method to reduce Nitrogen Oxides (NOx), Sulfur Oxides (SOx), and Particulate Matter (PM) emissions while at berth, further analysis--relating to the cost of the shoreside power infrastructure, the uncertainty of the price of electricity, and the limited number of ship calls able to use shoreside power--is required to determine economic feasibility.
5. Commit SFCT to study implementation of shoreside power at the James R. Herman cruise terminal. As part of the Scope of Development in the Lease Disposition and Development Agreement between the Port and SFCT, SFCT must commit to an engineering analysis that will determine the infrastructure cost of electrical transmission to the mixed-use portions of the project. SFCT will commit in this analysis to include the incremental cost of providing cruise terminal shoreside power and complete this analysis no later than June 30, 2006, and when completed the CTEAC will reconvene to review this analysis and provide a recommendation to the Port Commission.
6. Instruct Port staff to make the pursuit of funding (federal, state and private) one of the Port's highest priorities. Prepare a funding plan and aggressively pursue federal grant funding and other sources to fund the implementation of shoreside power at the James R. Herman cruise terminal, and report periodically to CTEAC and provide a recommendation to the Port Commission and report progress to BCDC by June 30, 2006.
7. Commit SFCT to include adequate space in all utility trenching, ductwork and other civil engineering work to bring electrical service to the Pier 30-32 project site and in designing and installing the electrical distribution system at the James R. Herman cruise terminal to allow for the installation of a shoreside power connection at a future date, in the event that adequate funds are not identified prior to the initial commencement of project construction.

8. Initiate negotiations immediately with San Francisco Public Utilities Commission and other direct stakeholders with regard to the price of shoreside power electricity from provider and resolve outstanding issues relating to the transmission and price of shoreside electric power; commit to the resolution of transmission and pricing issues such that there is an incentive to the cruise lines to utilize shoreside power usage prior to occupancy of the James R. Herman cruise terminal and report to the Port Commission and the Bay Conservation and Development Commission by June 30, 2006.

Recommendation

Port staff recommends that the Port Commission approve CTEAC recommendations regarding the feasibility of reducing air emissions at the James R. Herman International Cruise Terminal and authorize that the Executive Director forward these recommendations to the Bay Conservation and Development Commission for its consideration as required under Major Permit 5-03.

Prepared by: John Doll
Project Manager
Planning & Development Division

ATTACHMENT A

Feasibility Study of Shoreside Power and Alternative Air Emission Technologies

Environ provided the following conclusions:

(1) Shoreside auxiliary electrical power demand is estimated to be less than 12.5 MW for a single shoreside connection. This is consistent with demands at Juneau and Seattle.

(2) Hotelling with shoreside power is technically possible. Certain provisions could be incorporated into the facility design, principally the under-pier electrical conduit and provision of adequate space for future step-down transformer expansion and electrical reel placement to accommodate a shoreside power system.

(3) The technical aspects of shoreside power have been examined and Environ found that Pier 30-32 does not present any unique issues to San Francisco; these issues have been addressed in actual installations in the Princess berths in Juneau and Seattle. However, aesthetics and space management (i.e., installation of a transformer) need to be addressed at Pier 30-32.

(4) Only one cruise line has vessels equipped to receive shoreside power – Princess Cruises. Of the Princess ships that frequent the Port of San Francisco, only the Dawn Princess is currently equipped for hook-up to shoreside power. It is estimated that other Princess cruise ships and ships from other cruise lines could be retrofitted at a cost of \$500,000-700,000 per ship.

(5) The shoreside capital cost for electricity supply for a single berth to be in the range of \$1.5 million to \$3.0 million, with an approximate range of \$600,000 to \$1.5 million for on-pier electrical supply fixed costs. Within the cost estimates for the on-pier electric supply, the capital cost for a substation with a 12.5 MW transformer, and a double cable reel tower assembly was estimated to be about \$300,000. However, this cost would be increased accordingly if more than 2 cables and/or larger transformer are used. The shoreside annual operation and maintenance cost, which would be mainly labor cost, was estimated to be approximately \$140,000.

(6) The main cost to cruise ship operators is the increased cost of the electrical power provided by the local utility as opposed to providing their own auxiliary power by way of at dock hotelling with their own engine/generator system. This study showed that this cost ranged up to 2 to 3 times self-generated electrical costs. In other words, it costs the cruise industry more to use shoreside power while at berth than shipboard generated electrical power. The study found that the “break-even” point for this portion of the electrical cost was in the range of \$0.05-0.10/kW-hr of provided electrical load.

(7) Depending on ship size and frequency of visits, the study estimated that an annual cost of approximately \$150,000 to \$300,000 per ship for purchase of utility provided electricity.

(8) A key determinant of any future shoreside power system must include a thorough examination of electrical rate structures available to the cruise ships. For the Environ study, nominal rate structures of 0.141 \$/kW-hr and 0.220 \$/kW-hr provided by PG&E were used for the four candidate ship scenario and for one ship scenario, respectively. For comparison, other ports that have implemented or are implementing shoreside power report or anticipate energy rates in the range of 0.03 to 0.085 \$/kW-hr. This is made possible through a subsidy provided by ports and/or city owned utilities.

(9) Current methods of evaluating the “cost effectiveness” of various air pollutant emissions reductions control options in California often rely upon the “Carl Moyer” program guidance. Cost effectiveness is usually expressed in terms of tons of air pollutant emissions reduced divided by the cost of the measure to accomplish that reduction. The upper end of the “acceptable” ratio for this metric under the Carl Moyer program is approximately \$14,000/ton of combined oxides of nitrogen and particulate matter.

Shoreside power would provide about 8 to 20 tons per year of NO_x emission reductions, and 0.05 to 1.3 tons per year of PM emission reductions per vessel, which was about 80% and 75% of the hotelling NO_x and PM emissions, respectively, from the four candidate ships examined in the study. The total shoreside power emission reduction from the example vessels was estimated to be about 50 tons/year of combined NO_x and PM emission reductions or about 50% of the total hotelling emissions from all the cruise ships—if they could hook-up to shoreside power--berthed at the Port in 2004. In addition to NO_x and PM emissions, the SO_x emission reduction from shoreside power from these vessels was estimated to be about 30 tons/year.

Shoreside power provision examined in this study produced cost effectiveness values of 5,500 to 7,000 \$/ton if all four ships examined are assumed to participate. However, if only one ship, or several ships with infrequent rates of call, is assumed, this cost effectiveness becomes much less attractive, quickly exceeding the State’s Carl Moyer limit. Therefore, it is important that the program, to be cost effective, result in use by as many frequently visiting ships as possible.

(10) Alternative air emission control technologies, in tandem with one another or separately, were also evaluated for feasibility and cost effectiveness to reduce hotelling emissions. While they are technically feasible, the Environ study demonstrated that these methods, used alone, are not as effective in emissions reduction as shoreside power. Environ noted that because the sulfur in marine fuel can be responsible for a large portion of Particulate Matter emissions, the California Air Resources Board is considering a program to encourage the use of low sulfur fuel for ship auxiliary diesel engines in California waters.

Environ concluded that shoreside power implementation is technically feasible, but requires further study to ensure its economic feasibility. Environ recommends that the following five steps be undertaken to determine feasibility:

(1) PG&E should prepare a detailed electrical cost study to determine the cost of implementing

shoreside power.

(2) The electrical rate structure must be fully vetted with the participation of the Port, SFCT, PG&E, and the San Francisco Public Utilities Commission as this is a crucial element in determining actual cost-effectiveness.

(3) A re-examination of future ship use of shoreside power should be undertaken to assure that assumptions made in the Environ study hold as implementation becomes more certain.

(4) The Port should work with other West Coast port to better assure equity of treatment of cruise ships so that no port is penalized (through loss of business) for implementing progressive air pollution control measures, such as shoreside power.

(5) The Port and other stakeholders should explore the availability of potential government-funding options to subsidize shoreside power.

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 05-63

- WHEREAS, on March 23, 2003, by Resolution No. 03-27, the Port Commission adopted findings, including a statement of overriding considerations and a mitigation and monitoring program, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA guidelines in connection with the Mixed-Use Cruise Terminal Project (also known as the James R. Herman International Cruise Terminal); and
- WHEREAS, on March 23, 2003, by Resolution No. 03-28, the San Francisco Port Commission approved transaction documents to allow the development of a new Mixed-use Cruise Terminal at Pier 30-32; and
- WHEREAS, on June 12, 2003, by Resolution No. 03-39, the Port Commission approved a San Francisco Cruise Terminal and Environmental Policy and Program which included creation of the Cruise Terminal Environmental Advisory Committee (CTEAC) which serves as an advisory group to the Port Commission; and
- WHEREAS, on November 6, 2003, the Bay Conservation and Development Commission (BCDC) approved a resolution that requires that by September 30, 2005, the permittees report to BCDC on CTEAC's recommendations to reduce air emissions and on the Port Commission's determination as to the feasibility of implementing those recommendations. The recommendations should address, at a minimum, the feasibility of using lower emission fuels, cold-ironing (i.e., shoreside power hook-up), the prohibition of onboard incineration, and the identification, reservation, and incorporation of infrastructure within the project site for emerging technology; and
- WHEREAS, on behalf of the Port, Environ International Corporation prepared a feasibility study of shoreside power and alternative air emission technologies for cruise ships berthing at the future James R. Herman International Cruise Terminal; and
- WHEREAS, CTEAC has reviewed the Environ study and endorsed its recommendations; and
- WHEREAS, CTEAC unanimously agreed on the air quality recommendations outlines in the staff memorandum for this Agenda item; and
- WHEREAS, the Port staff recommends to the Port Commission adopt CTEAC's air quality recommendations; now, therefore, be it

RESOLVED, that the Port Commission hereby approves the CTEAC recommendations regarding the feasibility of reducing air emissions at the James R. Herman International Cruise Terminal; and

RESOLVED, that the Port Commission authorizes the Executive Director forward CTEAC's recommendations to the Bay Conservation and Development Commission for its consideration as required under Major Permit 5-03.

I hereby authorize that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 27, 2005.

Secretary



MEMORANDUM

September 22, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director

SUBJECT: Approval of Ground Lease with Literacy for Environmental Justice for the Construction Maintenance and Operation of a Living Classroom Building at Heron's Head Park and Related Transaction Documents.

DIRECTOR'S RECOMMENDATION: APPROVE GROUND LEASE AND RELATED AGREEMENTS

BACKGROUND

The Port constructed Heron's Head Park (HHP) on the formerly undeveloped Pier 98 in 1998 as part of settlement of a BCDC enforcement order. The park includes approximately 8 acres of wetland habitat, and 14 acres of upland open-space with trails, picnic area, interpretive signs, and a fishing pier.

Community participation has been an important part of Heron's Head Park since its inception and is a major contributor to the health and vitality of the park. Heron's Head Park offers a unique opportunity for local schools and other visitors to study and enjoy wetlands in their own backyard. The Port has sought to actively promote community involvement at the park and to help local schools take advantage of the hands-on educational experience that Heron's Head Park offers. To that end, the Port has worked with various entities to develop and conduct school and community participation programs at Herons Head Park since 1998. The programs offer opportunities to a wide variety of ages and interests, from a short field trip for pre-schoolers from a nearby child development center, to a semester-long series of field trips by a local high school science class, to independent study of wetland ecology by City College students. The programs also include monthly community participation days on weekends to promote involvement of non-student park visitors.

THIS PRINT COVERS CALENDAR ITEM NO. 6A

Literacy for Environmental Justice (LEJ), a community-based non-profit organization dedicated to providing environmental education programs to schools and youth groups in the Bayview-Hunter's Point community, has conducted education and community/volunteer programs at Heron's Head Park under contract with the Port since 2001. These programs have brought thousands of youth and adults to study and appreciate one of the few remaining wetlands in the city and have contributed many thousands of hours of volunteer work to maintain the park and wetlands. LEJ is physically located in Bayview-Hunter's Point, has demonstrated commitment and experience in providing culturally relevant environmental education programs for urban youth, and offers a high degree of technical expertise. LEJ also draws youth directly from the community that Heron's Head Park is intended to serve to participate as employees, interns and student leaders.

In 2001, LEJ applied for and received a grant of \$898,000 from the City and County of San Francisco Department of the Environment (DOE) to construct the "Living Classroom" at Heron's Head Park. The Classroom will consist of a one-story, 1,425 square foot building with passive solar power. It will be certified as a LEED ("Leader in Energy and Environmental Design") structure, in accordance with the City's Green Building Ordinance. The "Living Classroom" will house LEJ's educational programs and will be available for certain other educational and community functions.

In January 2001, the Port Commission approved Resolution No. 01-02 supporting LEJ's grant application and authorizing Port staff to negotiate agreements with LEJ as needed to construct the Living Classroom. In October 2002, the Port Commission heard an informational progress report, including the presentation of the schematic design and the Port's role in project implementation.

Port staff has negotiated a ground lease with LEJ for the construction, and occupancy and maintenance of the Living Classroom. The ground lease and all related exhibits on file with the Port Commission Secretary, and the key terms and conditions are outlined below:

PROPOSED LEASE

1. Premises:

Approximately 2,292 sq. ft. of open land, which represents the footprint of the Living Classroom building to be constructed by LEJ and approximately 6,058 sq.ft. of open land under non-exclusive license for footpaths, landscaping and circulation around the building.

2. Use:

The construction and operation of a building consisting of approximately 1,450 square feet of indoor space including a classroom/meeting room, small office, two bathrooms, a storage room, and a small greenhouse. The facility will be used as the home base for environmental education programs and for related meetings or other purposes consistent with the park programs or other Port uses. LEJ must conduct the foregoing construction and permitted uses in accordance with the Final Supplemental Environmental Impact Report (SEIR) issued by the San Francisco Planning Department, Office of Environmental Review, File No. 1999.377E. Also, LEJ must make the building available for use by future grantees of Port funded educational programs.

3. Term of Lease:

The Lease becomes effective upon satisfaction of various conditions precedent, including Board of Supervisors approval and payment of certain fees and deposits by LEJ (see below). Upon Lease commencement and procurement of all requisite regulatory approvals, LEJ may begin construction of the Living Classroom but may not occupy it or commence "operations" at the building until the Jefferson-Martin 230kV Line Project has been completed by PG&E. The Lease has a term of ten years, commencing on the date of completion of the transmission line described above.

4. Rent:

Base Rent: Rental Rate of \$.20 per sq. ft. per month for open land, with annual cost of living increases.

Total Base Rent \$458.40 per month. \$5,500.80 annually.

5. Security Deposit: \$5,000.00

6. Rent Credit for Foundation and Site Preparation:

LEJ, at its sole cost and expense, must grade and prepare the leased site, and construct a foundation for the Living Classroom building. LEJ will receive a rent credit for the actual cost of such working upon submittal of requisite documentation in a sum not to exceed \$70,000.00.

7. Improvements:

LEJ will construct, at LEJ's sole cost and expense, a 1,450 square foot building and ancillary outdoor improvements, such as footpaths and landscaping.

8. Maintenance and Repairs:

Throughout the term of the Lease, LEJ shall maintain and repair, at LEJ's sole cost and expense, the Premises, and all public access improvements located on the Premises, except for Capital Improvements (described below).

9. Capital Improvements:

While the Lease is a triple net lease, Port agrees to perform certain capital improvements on the Premises during the Lease term to maintain quality control in such improvements. LEJ must pay Port, prior to Lease Commencement, \$48,000.00 as a "Capital Improvements Fee" to cover Port's anticipated costs. This Fee may be reasonably increased by the Port during the Lease term.

10. Environmental:

LEJ will be required to comply with applicable mitigation measures identified in the Addendum to Final Negative Declaration, dated July 26, 2002, File No. 1997.432E, issued by the San Francisco Planning Department.

11. Fee for Removal of Tenant Improvements:

LEJ must pay a Removal Fee in the amount of \$15,000.00, prior to Lease Commencement, securing LEJ's obligation to remove all improvements on the Premises. This Fee is nonrefundable to LEJ even at Lease termination.

12. Materialman's Completion Bond:

LEJ shall furnish to Port a Materialman's Completion Bond, issued by a responsible surety company, satisfactory to Port in Port's reasonable discretion, licensed to do business in California, in an amount not less than the final construction contract bid. The Materialman's Completion Bond must remain in effect until the entire cost of proposed improvements have been paid in full and the new improvements have been insured as provided in the Lease.

13. Assignment and Subletting:

LEJ is not allowed to sublease the Premises, and LEJ may not assign the Premises without the Port's written consent. Additionally, LEJ must agree to assign the Lease to a party requested by the Port if an Event of Default occurs and the Port elects such a remedy. This provision is designed to ensure that the Living Classroom can be utilized for educational purposes by another qualified nonprofit if LEJ is unable to perform its Lease obligations. The California Coastal Conservancy will assist the Port in finding a qualified assignee. The assignment will not require subsequent Port Commission or Board of Supervisors approval as long as no material changes are made to the Lease.

SOUTHERN WATERFRONT ADVISORY COMMITTEE (SWAC)

SWAC reviewed and voted on proposed Lease between the Port and LEJ at its meeting on July 13, 2005. SWAC bylaws require a minimum 5 votes in favor to carry an item. At the meeting at which SWAC 8 members were present, 4 members voted in favor of the proposed transaction, 2 voted against, and 2 abstained from voting.

BOARD OF SUPERVISORS APPROVAL

Under Charter Section 2.110 and 9.118, leases having a term of ten years or more are subject to approval by the Board of Supervisors. The lease with LEJ for space at Heron's Head Park will require approval from the Board of Supervisors and will not become effective until such approval is granted.

CALIFORNIA STATE COASTAL CONSERVANCY

In October 2003, the California State Coastal Conservancy, consistent with its mission to promote public access to the coast, awarded a grant of \$400,000 to LEJ to support construction of the Living Classroom. The Public Resources Code authorizes the Coastal Conservancy to award grants and requires that the Coastal Conservancy execute agreements with grantees and property owners to protect the public interest in any improvements or developments funded by such grants. The agreement between the Coastal Conservancy, the Port and LEJ ensures that the Living Classroom will be maintained and operated in manner consistent with the intent of the grant, provides nondiscriminatory public access, and does not pose a hazard to public safety or property. A copy of the proposed Agreement is attached as an exhibit to the Ground Lease. The key terms are that the Living Classroom be used for environmental educational purposes for 20 years and that the conservancy has the right to find a replacement nonprofit to LEJ for the lease obligations in the event LEJ defaults and Port exercises its remedies.

STAFF RECOMMENDATION

Port staff recommends that the Commission authorize and direct the Executive Director to enter into the proposed Ground Lease in substantially the form on file with the Commission Secretary, as well as all related agreements, including the tri-party agreement with the Coastal Conservancy and LEJ.

Prepared by: Mark Lozovoy, Assistant Deputy Director, Real Estate
Carol Bach, Assistant Deputy Director, Environmental, Health and Safety
Bijal Patel, Deputy City Attorney

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 05-64

- WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and
- WHEREAS, Literacy for Environmental ("LEJ") has proposed to develop a "living classroom" facility at Heron's Head Park, which is within the Port's jurisdiction; and
- WHEREAS, the proposed use of Heron's Head Park is consistent with the California Public Trust, the General Plan of the City and County of San Francisco, the San Francisco Planning Code, the Waterfront Land Use Plan and the BCDC Seaport Plan; and
- WHEREAS, the site for the LEJ Lease proposed at Heron's Head Park was analyzed in an Addendum to Final Negative Declaration, dated July 26, 2002, File No. 1997.432E issued by the San Francisco Planning Department, Office of Environmental Review to assess any changes in environmental impacts from the proposed Lease; and
- WHEREAS, Port staff have negotiated a lease ("Lease") for the construction, maintenance, and operation of the proposed Living Classroom, a copy of which is on file with the Commission Secretary and the terms for which are outlined in the staff report for this Agenda item ("Staff Report"); and
- WHEREAS, as part of transaction Port staff have also negotiated an agreement with the California Coastal Conservancy, a donor agency for the Living Classroom, in the form attached to the Lease; and
- WHEREAS, The Lease requires approval by the Board of supervisors pursuant to Charter Section 9.11.8; and
- WHEREAS, Port staff recommends the Commission approve the Lease and related agreements on the terms and conditions set forth in the Staff Report; now, therefore, be it
- RESOLVED, that based on staff's recommendation and its own review and analysis, the Port Commission hereby approves the Lease and related agreements; and now, be it further

RESOLVED, that the Port Commission hereby authorizes and directs the Executive Director to forward the Lease to the Board of Supervisors for approval, pursuant to its authority under Charter Section 9.118 (c), and upon the effectiveness of such approval, to execute the Lease and related agreements; and now, be it further

RESOLVED, that the Commission authorized the Executive Director to execute and enter into any additional documents including non-material modification to the Lease and related agreements, as she deems necessary or appropriate, in consultation with the City attorney, to consummate the transactions contemplated hereby or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 27, 2005.

Secretary

SAN FRANCISCO PORT COMMISSION

7/05
SEPTEMBER 27, 2005
MINUTES OF THE MEETING

DOCUMENTS DEPT.

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MEMBERS, PORT COMMISSION

HON. WILFRED HSU, PRESIDENT
HON. MICHAEL HARDEMAN, VICE PRESIDENT
HON. KIMBERLY BRANDON
HON. SUE BIERMAN
HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR

CITY & COUNTY OF SAN FRANCISCO PORT COMMISSION

MINUTES OF THE REGULAR MEETING SEPTEMBER 27, 2005

1. CALL TO ORDER / ROLL CALL

Commission President Michael Hardeman called the meeting to order at 3:15 p.m. The following Commissioners were present: Michael Hardeman, Kimberly Brandon and Ann Lazarus. Commissioner Wilfred Hsu arrived at 3:25 p.m. Commissioner Sue Bierman was not present.

2. APPROVAL OF MINUTES - September 13, 2005 Meeting

ACTION: Commissioner Lazarus moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report: Monique Moyer reported the following:

- Report on the Trade & Friendship Mission to Ireland: She participated with the Mayor and his delegation on a trade and friendship mission to the City of Cork which is a sister city of San Francisco established by Mayor Dianne Feinstein in 1985. Subsequently, Mayor Jordan also visited the City of Cork with a delegation. They were well received by the City Council of Cork and the Lord Mayor who happens to be a woman. Most of the high ranking individuals in Ireland are women, which is the good news. The bad news is that they have absolutely no authority. The long ranking City Manager has control of the decisions in Cork. The Port of Cork was outstanding. They hosted the delegation for 2-½ days and gave them detailed tour of their facilities. She intends to give the Commission a written report of both her meetings with the Port of Cork and the Port of Dublin. The short synopsis is in 1997, the State of Ireland made a decision that the ports would be semi-governmental entities. They are no longer governmental entities as we would know them. They run as a corporation and in fact, they are LLC. For example, they do not have governmental employees, civil service servants, etc. They have quite a few lovely perks that the Commission would appreciate. Each of the board members makes a \$10,000 a year stipend. The chair makes a \$15,000 a year stipend. They hold their board meetings in private, once a month for an hour. The Executive Directors all have contracts and brand new Mercedes Benz which are paid for by the corporation. She came away with two things: The chief executive officer of Dublin said, at the end of their meeting, that it was very interesting to see

how different parts of the world try to solve the same problems. We seem to have a lot of the same issues but with very different flexibility and how we solve them. While they may have more flexibility on a commercial corporate side, they have less flexibility under the State constitution with respect to what constitutes tenant rights. She came away with the very strong reminder that port business is a global business. The entities that we are doing business with are also doing business in Dublin and Cork. We need to remember that while we think of ourselves as a diamond at west coast port, we really are a big port in a big world. We need to continue to work that way and work on issues together. She thanked the Commission for the opportunity to go on the trip and to share and promote the Port of San Francisco as well as bring home some ideas and new thoughts. It's her plan to give a written report to the Commission. The report on Dublin is almost done. The report on Cork is somewhere between here and there in the mail. They presented both the Mayor and her with lovely gifts, not the least of which was some fabulous books. One of them was called "*Dublin – A Historical Perspective from the 1st to the 19th Century.*" It gives you an idea how old their facilities are. Some of the issues they struggle with look like our issues.

- Report on the Port of Los Angeles' visit. Kirk Bennett will report on the meeting that the Port hosted with the Port of Los Angeles.

Kirk Bennett, Manager of Waterfront Development Projects, reported on a planning development workshop which the Port hosted with the Port of L.A. It was an all-day workshop on September 19th. It was attended by 9 senior staff from the Port of L.A., 4 from EDAW, their planning consultant and 11 other consultants hired by the Port of L.A. including Keyser Marston and Economic Research Associates. The first topic of the workshop was a presentation by the Port of L.A. and the Port of S.F. with their respective waterfront plans. Ours was adopted by the Port Commission in 1997 with seven amendments since then. Theirs was adopted this month. They are about ten years behind us. The second topic they focused in on was our experience in implementing our waterfront plan. The Port of L.A. is known for its cargo. The Port of Long Beach is by far the number one cargo port in the western hemisphere, south of San Pedro channel. The Port of L.A. has finalized their master plan for the 8.5 miles of waterfront they manage north of the channel, from the Vincent Thomas Bridge to the ocean breakwater. They call their plan from Bridge to Breakwater. The major goals of this plan is to transform the San Pedro historic waterfront to integrate the working port with a thriving recreational commercial and cultural attractions to provide open space, public access and create a grand promenade and boulevard with mass transit along it and create a place for everyone to enjoy from the local residence to international visitors. They are where we were in 1997. They have a vision and excitement over their plan and they are now poised to implement the plan. The major issue that they desire to discuss and became the topic of the afternoon portion of the workshop was the increasingly stringent interpretation of the public trust doctrine by the State Lands Commission. A number of their staff attended the workshop hosted by Hastings School of Law this past summer. They were very concerned as a port of how these interpretations of the public trust appears to be an impediment to the implementation for an urban

waterfront within a port which manages properties where no one can disagree to maximize the maritime activity. As you recall, the Port of L.A. did not support our proposed mixed-use development when we sought public trust consistency from the legislature for the Piers 30/32 project. They did not support the other uses that were there to create a place. They now see such mixed uses as an integral part of an urban waterfront. This is true even for, indisputably, one of the top maritime ports in the country. They expect that they would be utilized in public/private partnership as an integral tool to implement their vision even though they have significant financial resources. There was a very meaningful discussion. They proposed to have a follow-up meeting which they will host in L.A. some time in November to further the conversation and some of the experiences we are having as an urban ports. Other urban ports are taking shape as well. Port staff has already met with the Port of San Diego and the Port of Oakland. There will be other opportunities for further dialog.

Ms. Moyer emphasized that we are starting to think of ourselves beyond just the 49 square miles of San Francisco and the 7.5 miles that we oversee and try to enlarge a little bit of our view and also provide assistance to other ports. Once again, whether we like it or not, we seem to be in the cutting edge of something.

- Secure Automated Inspection Lanes (SAIL II). This is the second pilot program under the Transportation Security Act (TSA) related to ferries. The first program focused on passenger vehicle ferries and the second focused on passenger ferries. Golden Gate Bridge District was selected for this pilot program. SAIL II is an explosive trace detection pilot program for mass transit use. An explosives detection device screens for explosive residue on people's hands. If a person touches an explosive device, fire gun, etc. the residue of that will stay on the person for a couple of days. This is a program to see if there is a mechanism for testing that can be incorporated with the time demands of people meeting their ferry schedules. Effectively, each passenger buys their tickets. They are given a card and as they board the ferry, they simply put the card through the machine. If the paper is positive, the passenger is asked to rerun a different card and could be subjected to a radar-type or bodily-type search. The Coast Guard and the local first responders were happy with the program. Ireland has agreed to the same maritime safety rules as we have. They call it by a different name but it's the same MARSEC Levels 1, 2 and 3. They have not gotten to such a type of testing yet. Even though ferries are much a larger part of their business particularly transporting passengers with baggage and their vehicles. The Port is proud to be participating in this pilot program
- Fleet Week – October 7-11, 2005. This makes the 24th year that Fleet Week has been in San Francisco. The Blue Angels will be back. On Saturday, the festivities will open with the parade of ships at 11:45 a.m. which will include naval vessels, a Coast Guard Cutter and USS Jeremiah O'Brien. According to the Mayor's Office of Neighborhood Services, they have received more calls complaining that the Blue Angels weren't in town last year than they've ever gotten complaining about the Blue Angels and the noise that they bring.

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that a knowledge of the past is essential for a full understanding of the present. The author then goes on to discuss the various factors which have shaped the development of the United States, including the influence of the British, the Spanish, and the French. The paper concludes by stating that the study of the history of the United States is a task of great importance and interest.

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- October 5, 2005. The Port will be hosting an all-day meeting of the Marine Vessels and Port's work group of the West Coast Collaborative. The collaborative is a public/private partnership which is working to reduce air pollution from diesel emissions. They will be meeting in Pier 1. The meeting is open to the public. The information will be posted on our website. Jay Ach and Deborah Jordan from EPA will be the host and hostess of the meeting.
- Hornblower won the Alcatraz trip. There were three bidders, all of which are Port tenants. Hornblower won the bid. The other bidders have 100 days to file a protest. Thereafter, the 10-year contract will be awarded to Hornblower Yachts.

4. CONSENT

- A. Request approval to accept and expend \$3,200,000 in grant funds from the Federal Government through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) surface transportation reauthorization bill, and \$250,000 in grant funds from the Association of Bay Area Governments (ABAG) Bay Trail Project for the Illinois Street Intermodal Bridge project. (Resolution No. 05-62)

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 05-62 was adopted.

5. MARITIME

- A. Request approval of CTEAC recommendations regarding the feasibility of shoreside power and alternative air emissions technologies at the James R. Herman Cruise Terminal, Pier 30-32. (Resolution No. 05-63)

Peter Dailey, Deputy Director of Maritime, indicated that a couple of years ago, the Port Commission approved the development agreement for a cruise terminal at Pier 30/32. Part of that process was an environmental impact report and CEQA findings that called for the implementation of a monitoring reporting program and for the formulation of two advisory groups to review additional mitigation measures for air and water quality impacts of cruise ships. Today the Port had four cruise ships gracing its harbor. There were two ships berthed at Pier 35. The Celebrity Summit is at Pier 30/32 and another at Pier 70 where it will remain for the next two weeks, undergoing a multi-million renovation, employing hundreds of workers at the shipyard. The cruise industry has a vital economic impact to the City, an estimated \$60 million of direct and indirect benefits to the City. Through the CTEAC process, the Port and members of the environmental community, other sister agencies, the cruise industry, there was an unprecedented participation. A couple of meetings ago, staff presented to the Commission the water quality recommendations which the Commission approved. Today, John Doll will discuss the specific air quality mitigation and recommendations. CTEAC has met in excess of 20 times since the Commission approved its formulation. He acknowledged John Doll, Jay Ach, Mike Nerney and John Mundy for their

tremendous effort on this project as well as members of the environmental community, Terri Shore from Blue Network, our sister agencies, Dr. June Weintraub and Paul Osmundson. Harry Saradarian is the facilitator of the CTEAC and a former EPA administrator. If it wasn't for Harry, they would not have been able to get this project through. He also acknowledged: Tom Dow from Carnival Corporation and Tom Green of Crystal Cruise Lines. Last week, members of the Commission attended a press conference where the EPA awarded the Port \$100,000 grant to help subsidize cruise ships that use low sulfur fuel while in port. At that event, the Bay Area Air Quality Monitoring District (BAAQMD) representative said something very insightful, "Collaboration breeds creativity." The CTEAC process has shown that. Another event that came out of the CTEAC process was the Port's awarding its first cruise ship environmental green award to Crystal Harmony for exceeding environmental regulations industry standards to achieve greater protection in air, water quality in San Francisco Bay. This is not the end, but rather the mid-point of the process. There is a lot of work to be done. Port staff is invigorated by this collaboration and looks forward to developing the cruise terminal in the years to come.

John Doll, Planning & Development, indicated that under the BCDC conditions for the major permit for the cruise terminal, they require that the permittees report to BCDC the recommendations of CTEAC regarding air quality. The recommendations should specifically address the feasibility of using low sulfur fuel and the feasibility of shoreside power hook-up. The Port contracted with Environ International Corporation to prepare such a feasibility study to primarily look at shoreside power, low sulfur fuel use and other emerging technologies that may reduce air emissions from cruise ships. The Environ Study demonstrated that shoreside power is the most effective way to reduce cruise ship emissions at berth and the use of low sulfur fuel also helps reduce air emissions for those ships in transit and those ships who are not able to hook up to shoreside power. Generally speaking, Environ concluded that shoreside power is technically feasible based on the experiences at Juneau, Alaska and Seattle, Washington. Such a shoreside power system would require 12.5 megawatts. Cabling would be needed to take this capacity to the ship. A step down transformer would have to be placed on the pier and a gantry system to actually plug into the cruise ship. The Juneau and Seattle examples only involve one cruise line i.e. Princess Cruise Lines. Princess worked directly with the respective utility companies to get that accomplished. In contrast, the Port of San Francisco handles a number of different cruise lines and a number of different ships which makes this project that many more times more difficult. On a positive side, the ports of L.A., Long Beach and San Diego are looking into shoreside power feasibility and implementation. Over time, staff believes that shoreside power will occur on the west coast, not only for cruise ships but possibly for container ships as well. From staff's point of view, this is an opportunity to get ahead on the curb.

The cost of retrofitting a cruise ship is approximately half a million dollars. Princess is the only cruise line that has done this retrofit to date. Environ estimates that the cost of shoreside power infrastructure is approximately \$3 million based on the experiences in Juneau and Seattle. A detailed engineering plan for piers 30/32 would be required. Based on the Environ report, CTEAC unanimously agreed on a series of recommendations:

1. To support the California Air Resource Board's proposal to require the use of low sulfur fuel. Port staff believed that eventually this will be a statewide mandate, although there are some issues regarding the availability of low sulfur fuel, its pricing and other technical issues.
2. Acknowledge that while shoreside power is technically feasible and a growing trend along the west coast, further analysis is required to determine its economic feasibility. The critical factors that need to be solved are:
 - Determine the incremental cost of shoreside power to the cruise terminal. The developer already has to bring electricity to the mixed-use portions of the pier. The incremental cost is the additional cost for shoreside power.
 - Determine what the price of electricity would be to make it feasible.
 - Determine whether cruise ships or cruise lines other than Princess who've already demonstrated their commitment to shoreside power will use shoreside power in the Port of San Francisco.
3. With regard to the incremental cost, the developer is committed to bringing electrical power to the mixed-use portions of the project; this will include adequate space, utility trenching, ductwork and other necessary civil work for shoreside implementation. What remains is the incremental cost of providing the transformer, the cabling and the gantry. That cost is approximately \$3 million, a preliminary cost done by Environ. The developer will also complete engineering study to determine the cost of shoreside power by June 30, 2006. This incremental cost of providing shoreside power remains a gap in terms of implementation.
4. Staff recommends aggressively pursuing a grant and private funding of shoreside power and preparing a funding plan by June 30, 2006.
5. With regard to the price of electricity, staff recommends negotiations with the San Francisco Public Utilities Commission and stakeholders including PG&E and Princess and possibly other cruise lines and committing to a resolution of transmission and pricing issues by June 30, 2006.
6. With regard to the uncertainty of who will use shoreside power, Princess appears to be committed to continuing their efforts to use shoreside power. Staff plans to coordinate with other west coast ports regarding shoreside power usage and to develop an incentive program for cruise lines to maximize their use at the port.

In summary, shoreside power implementation appears to be possible, pending making sure the price of electricity is competitive and the Port is able to fund that incremental cost of shoreside power and ensuring that the cruise lines actually use the shoreside facility. Port staff is optimistic that this will happen probably by the time the new terminal is completed.

Should the Commission approve the CTEAC recommendations, staff will immediately send the air quality and water quality recommendations to BCDC for their consideration. They have 90 days to respond as to whether it is feasible or not. Port

staff recommends that the Port Commission approve the CTEAC recommendations regarding the feasibility of reducing air emissions at the new James R. Herman Cruise Terminal and authorize the Executive Director to forward to BCDC for its consideration under major permit 5-03.

Terri Shore, Clean Vessels Campaign Director for Bluewater Network in San Francisco, urged the Port Commission to approve the recommendations by CTEAC. She also commended Port staff and the Executive Director for their commitment in this process and to the end goal of building an environmentally responsible cruise terminal. These recommendations constitute a blueprint for the Port and the developer to build such a cruise terminal. They resulted from more than two years of meetings, workshops and studies through a stakeholder process. The recommendations give clear directions to the Port and to the developer and offer a promise of a solid environmental program to reduce air pollution from ships at the new terminal once it's built. Cleaner fuels will be required at the new terminal if the State has not regulated marine fuels for oceangoing vessels by that time. There is some modified language that states if the fuel is available and if it's financially feasible. Essentially that is the commitment to require the ships to use cleaner fuels. As Mr. Doll mentioned the intent is for the Port to support statewide regulatory effort. She urged the Port to take a public action, pass a resolution or send a letter to the Air Resources Board supporting a statewide mandate for cleaner fuels for all types of oceangoing vessels. A significant result of the CTEAC process was finding that installing shoreside power at the new cruise terminal is technically feasible. There are no major obstacles to it. It would allow the cruise ships to turn off their engines and plug into the much cleaner electrical power in San Francisco. Now the Port and the developer are tasked with determining the exact cost in creating and funding the plan. They are very encouraged by the commitment by the Port and the developer to this next step in the process. The estimated price tag that Environ came up for the infrastructure would be about \$3 million. That is an amount that is fully in reach especially if they call on many partners of the project, not just the Port but the cruise industry, the developer and a number of public agencies that are very interested in partnership to reduce diesel emissions. The \$3 million price tag is doable. They need leadership from the Port Commission, the City & County of San Francisco to use their resources and political muscle to make the environmentally friendly cruise terminal. She distributed a fact sheet that summarized her final comment.

Paul Osmundson, San Francisco Cruise Terminal LLC, supports the staff recommendations. They support CTEAC recommendations. The process has been sound. They have been actively involved in the process. The Environ study sets a good baseline for what they need to do in terms of determining the more specific cost that will be associated with installing shoreside power at the James R. Herman cruise terminal. Not surprisingly, economic feasibility is something they are quite concerned with. He agreed with Terri's comments that this plan sets out a doable goal that is within reach. They believe that shoreside power needs to be able to be implemented successfully in a reasonable period of time. The recommendations

Commissioner Hsu thanked the following for their efforts on this project: Port staff especially John Doll, Jay Ach, Mike Nerney, John Mundy and Peter Dailey. The developer, Lend Lease, Paul Osmundson, Tom Dow from Carnival Corporation, Tom Green from Crystal Corporation, Harry Saradarian, our facilitator, Jeffrey Leibovitz, our good neighbor and everyone who participated in the revolutionary agreement.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 05-63 was adopted.

6. REAL ESTATE

A. Request approval of Ground Lease with Literacy for Environmental Justice for the Construction, Maintenance and Operation of a Living Classroom Building at Heron's Head Park and Related Transaction Documents. (Resolution No. 05-64)

Ms. Carol Bach, Assistant Deputy Director for Environmental Health and Safety, pointed out that there are typographical errors in the resolution and appropriate edits have been provided. A little over five years ago, the Port developed the former landfill at Pier 98 to create 8 acres of wetland and 14 acres of upland park and public access facilities which reopened in 2000 as Heron's Head Park (HHP). A local non-profit organization, Literacy for Environmental Justice (LEJ), has been involved with HHP since its inception as a supporter of the park with their own funding and subsequently under contract with the Port, have provided educational and public participation program at HHP. In 2001, the Port supported LEJ's grant proposal to the Dept of the Environment and LEJ was subsequently awarded \$898,000 from the Dept. of Environment to plan for, design and construct a living classroom which will be an environmental education facility of green building sustainable construction proposed for HHP. In 2001, the Port Commission approved a resolution supporting LEJ grant application and authorizing Port staff to enter into subsequent agreement as needed to allow for that construction. In 2003, LEJ applied for and received from the California Coastal Conservancy an additional grant of \$400,000 towards supporting construction of the living classroom. The Public Resources Code which governs the California Coastal Conservancy funding an award of grant funds requires that the grantee and the property owner enter into a three-way agreement with the Coastal Conservancy to ensure that the funding is used in a way that is consistent with the Coastal Conservancy's mission of providing public access to the waterfront. Consequently, Port staff has negotiated such an agreement with the CA Coastal Conservancy which is included as an attachment to the lease.

Dana Lanza, Executive Director for LEJ, indicated that they are anticipating and hoping that the Commission will vote on their lease and allow them to begin construction of the living classroom. The living classroom will be a state-of-the-art environmental education facility in HHP. It will be the only environmental education center in the southeastern side of the City. It will be a 1500 s.f. building with 2200 additional outdoor areas of seats for children in a landscaped surrounding. It will be

allow for time and allows for Port staff to pursue other funding sources and allows them to perform the more detailed engineering studies and allows us all to talk with the energy providers to come up with a plan that make sense. This is a very balanced set of recommendations that promote further collaboration between all the parties.

Ellen Johnck, Executive Director of the Bay Planning Coalition, indicated that they have been pleased to be a part of CTEAC since its inception. She supports the resolution regarding air quality and shoreside power and alternative air emission technology. She was captivated by the discussion that went on in the committee on air quality. It proved to her that this has opened many doors of opportunity for collaboration and focused on several strategies on how to reduce air emission. There is a lot more work to be done in establishing the overall economic feasibility of bringing shoreside power and installing it at Pier 30/32. The coalition has been working with other ports on this very same topic including Southern California which is looking at the same issues. They are pleased to advance more discussion and be party to a collaborative effort with the Port and other industries to see this come to fruition. She was pleased to see that both PG&E and PUC are very much engaged in this discussion and looks forward to working with them. She urged the Commission's support of the resolution.

Jeffrey Leibovitz, CTEAC member and representative of the Rincon South Beach Citizens Advisory Committee, indicated that Harry Saradarian deserves an award for keeping everybody in line and not shedding one drop of blood. This is a historic agreement because the environmental community, the cruise industry and the community and the Port all came together in a unanimous recommendation to the Commission to bring this forward, approve it and send it off to BCDC. It says a lot about the cooperation of the groups. It says a lot for Port staff providing them with necessary information to make informed decisions. It is important that we realize that the power necessary to power the shoreside facility be from Hetch Hetchy. He knows that this is a legal issue between the Port, PUC and PG&E. He encouraged the Port to do whatever is necessary to come to some agreement so that this use is classified to Port tenant. If all we're doing is trading pollution credits for pollution credits, why spend the money? It's important that the Port and PG&E recognize that this is a very important issue regarding pollution. He stated that the cruise industry represents 5% of the shipping industry in the world, a small percentage. Driving that cruise ship at Pier 30/32, he sees very little pollution coming out of that stack. He sees more pollution coming out of Muni busses that go up and down the street in his neighborhood in a daily basis. He asked the Commission to approve the resolution and send it off to BCDC. He thanked Port staff for their hard work.

Commissioner Hardeman commented that on behalf of the Port, he accepted the check from the Environmental Protection Agency and Jay Ach took a photo of the event. He thanked everybody who participated that day. He thanked Jeffrey Leibovitz and the South Beach neighborhood for all they have done as wonderful neighbors to the Port.

operating regularly, providing free environmental education programs to students throughout the City, prioritizing young people from southeast San Francisco. On the weekends, they will be offering workshops to the public on solar energy, green building and water conservation. The building will consist of a classroom and a small office space. LEJ will not have their office at the site. Some of the unique features of the building include a living roof; one of the first buildings in the City with a living roof. There will be no habitat lost from the construction of the building. It will feature on-site waste water treatment through a living machine. This will be an important way to teach people about alternative waste water treatment which is also a big issue on the southeastern San Francisco. They anticipate serving approximately 1200 students a year in the programs and additional 500 adults a year in addition to the thousands of people who already visit HHP annually. They are very excited about this project. With the help of community members, they've looked at over 39 sites for the living classroom in the last few years and residents of BVHP unanimously selected HHP for the living classroom. They are excited to have finally reached this point. The facility has been designed by Toby Long Design with Trevor Holmes. She thanked Monique Moyer for being so flexible on this project. Her staff has been amazing. Bijal Patel has worked so many overtime hours with them and Carol Bach, as usual, goes way above and beyond the call. She's deeply loved by the people of southeastern San Francisco for all of the wonderful things she's helped them create there. She acknowledged the Port for being the pioneering agency for helping them with this project. They are hopeful that the Commission will vote positively on their lease.

Mark Lozovoy, Assistant Deputy Director of Real Estate, indicated that the premises under the lease is approximately 2200 s.f. of open land which represents the footprint of the living classroom building and approximately 6000 s.f. of open land which will be under non-exclusive license for an area which surrounds the building for landscaping, foot paths and circulation around the building. The use under the lease is for the construction and operation of the living classroom. The term of the lease is 10 years. The lease becomes effective upon satisfaction of various conditions including Board of Supervisors' approval and payment of certain fees and deposits by LEJ. Upon lease commencement and procurement of all regulatory approvals, LEJ may begin construction of the living classroom but they may not occupy or commence operations at the building until the Jefferson Martin 230KV transmission line project is completed by PG&E. The lease shall commence on the date of completion of the transmission line. The base rent calculated under the lease is 20 cents per square foot per month for open land with an annual CPI adjustment. The monthly base rent is \$458.40, approximately \$5,500 annually. The security deposit is \$5,000. Rent credit is included in the lease for foundation and site preparation. LEJ, at its sole cost and expense, must grade and prepare the lease site and construct a foundation of the living classroom. LEJ will receive a rent credit for the actual cost of such work at a sum not to exceed \$70,000. Throughout the term of the lease, LEJ shall be required to maintain and repair, at LEJ sole cost and expense, the premises and all public access improvements located on the premises except for specific capital improvements. The Port agrees to perform certain capital improvements on the premises during the term of the lease to maintain high quality control of such improvements. LEJ must, prior to lease commencement apply, \$48,000 as a capital improvement fee to cover the Port's anticipated cost. This fee may be raised during the term of the lease, if necessary. LEJ

must pay a removal fee in the amount of \$15,000 prior to lease commencement, securing LEJ's obligation to remove all improvements on the premises. This fee is non refundable to LEJ even after lease termination. Additionally, LEJ shall furnish the Port with a completion bond in the amount not less than the final construction bid, which is yet to be determined. Regarding assignment and subleasing, LEJ is not allowed to sublease the premises and may not assign the premises without prior Port written approval. Additionally, LEJ must agree to assign the lease to a party requested by the Port in an event of a default if one occurs and the Port elects such a remedy. This provision is designed to ensure that the living classroom can be utilized for educational purposes by another non-profit if LEJ is unable to perform its lease obligations. If necessary, the Coastal Conservancy will assist the Port in finding a qualified assignee. This assignment, if such assignment occurs will not require the subsequent approval of the Port Commission or by the Board of Supervisors if there are no material changes to the lease. The Southern Waterfront Advisory Committee (SWAC) reviewed this lease at its meeting on July 13, 2005. SWAC requires a minimum of 5 votes in favor to carry an item. At the meeting, 8 SWAC members were present, 4 members voted in favor of the proposed transaction, 2 voted against and 2 abstained from voting. The lease will require Board of Supervisors' approval because of the ten-year lease term. Port staff recommends that the Commission authorize the Executive Director to enter into a proposed ground lease as well as all related agreements including the tri-party agreement with the Coastal Conservancy and LEJ.

Commissioner Brandon asked Mr. Lozovoy to address Item #10, Environmental. Mr. Lozovoy indicated that all mitigations required on the site will be pursuant to the SEIR and the Negative Declaration that was approved for the HHP.

Joe Boss supports the lease. Five years ago, he was quite nervous not on the concept but how it was going to get done with a group of very energetic, well meaning people but lacking experience. Over the last five years he has gotten ancillary involvement, and LEJ has continued to be open to education. They've opened themselves up to people who have done development. They are very ready to take this on and it will be successful.

Charlotte Hill, Director of Kids In Park, an environmental organization in San Francisco, thanked the Port for the excellent work they've done in revitalizing the shore of San Francisco especially at HHP. The siting of the living classroom at HHP is a great way to continue this forward momentum. The living classroom is an excellent way to improve the educational and community services at HHP. She hopes the Commission grants the lease to LEJ.

Noreen Wheeden, representing Golden Gate Audobon, indicated that the society supports the LEJ's living classroom at HHP. LEJ, Golden Gate Audobon (GGA) and the Port have worked together in various projects and programs at that site since the creation of HHP. The Living classroom is an exciting opportunity to provide additional environmental education in San Francisco. They commend the lead certification which builds protection of this critical habitat and native species into the project. This project will meet the Port's goal of attracting residents and visitors to the waterfront. They support the environmental education of residents and visitors to San

Francisco. GGA has offered assistance to LEJ by providing educational information regarding the birds and the design of the building to minimize impact to the birds in the area. She encouraged the Port to support the living classroom.

Peter Brastow, Director of Nature in the City, offered his support for the project and encouraged the Commission to support the resolution. The mission of the City is to connect people with nature in San Francisco. Everyone is increasingly aware that our connection to nature has been eroded over many generations. The living classroom will go a long way towards restoring that connection to nature for the folks in the southeast San Francisco. He used to work at the Presidio as a restoration coordinator and he feels special kinship to Pier 98 and HHP for having helped restore the salt marsh at Crissy Field. The living classroom will serve an incredibly important function for that part of San Francisco.

Mishwa Lee, teacher at Community Scholars High School in San Francisco, thanked the Port and its staff for the hard work that has gone into this project. As a teacher in the southeast sector, it's very difficult to get her students out to a place like Crissy Field or Golden Gate Park. The distance and transportation can be a huge obstacle. They need something like this in the southeast sector. She read a letter from one of her students, Tony Powell, 17 years old who was born and raised in Bayview Hunter's Point. His letter states, "I think this would be a very positive thing for our community. Although many might not think that we are interested, there is people like me that are. The youth in our community need places like this, a place outside school where we can further our education. The community needs to know more about what's in our water, food and air. A place like this can be a factor that changes the way we live and look at things. With that said, please make the right choice by building this here."

Shawn Barry, San Francisco Urban Alliance for Sustainability, indicated that their group is interested in promoting the degree of sustainability present in the urban environment. On behalf of their organization, he encouraged the Commission to approve this resolution. This is a landmark project and an opportunity for San Francisco to be on the map as a leader in urban sustainability movement.

Biology Teacher from Mission High School submitted her support in writing and she's very much in support of the project and concurred with Ms. Lee's comments.

Deana Pearson, a youth advocate for LEJ, indicated not only does she work but also lives in Bayview Hunter's Point. They try to give back to the community by doing outreach and awareness in the farmer's market and other programs. She believes that this classroom will give back to their community because right now all she sees and hears in the community are negative things. The BVHP deserves this building in their community.

Commissioner Lazarus inquired what constitute the \$48,000 in capital improvements and by what standard does the Port reasonably increases that amount during the term of the lease. Mr. Lozovoy replied that there are a number of items set aside for the capital improvements such as plumbing, electrical, roof and painting to ensure the building is maintained. LEJ felt that it would be in their best interest to do that. Our

maintenance personnel came up with the estimate of \$48,000 to maintain those items on the lease.

Commissioner Brandon thanked Dana Lanza and LEJ for being so persistent. Any concept that gets so many kids involved and excited and learning and growing is a wonderful concept. She believes that if there are any environmental issues out there, the only way to get past them is to continually put money into it, upgrade, maintain it and make it a better place for everyone. She thanked everyone for coming and showing their support and being very active and excited about the project.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor; Resolution No. 05-64 was adopted.

7. NEW BUSINESS / AGENDA SETTING

Monique Moyer indicated that the harbor berthing rate increases is currently scheduled for October 11, 2005; however, the fishermen are still at sea for salmon fishing. They expect to be back in mid-October. Peter Dailey, John Davey and she will be out for the late October Commission meeting for the AAPA conference. The fishermen have requested that this item be held over to the first meeting in November. Port staff has agreed to their request with the caveat that would the absolute and latest date that we're willing to hold the item because thereafter they'll go into the crab season. The berthing rate item will be presented to the Commission on November 10, 2005. Everything else is on schedule as shown in the agenda.

Commissioner Lazarus inquired if there was any consideration given in not holding the meeting on October 25 since the Director and other members of staff will be out and given the agenda for that day is pretty light. Ms. Moyer replied that Tina Olson has offered to sit in for her that day. The items for the October 25 meeting are not as contentious to keep the items moving along. Staff would be happy to look at it again and consider not holding the meeting. However, if the October 25th meeting is cancelled, she was concerned of what the November 10th agenda would become. Since the Commission will only have one meeting in November and December because of the holidays, it could put a lot of pressure on the Commission on November 10th.

8. PUBLIC COMMENT

Merylin Wong, Historic Ships Memorial at Pacific Square, indicated that her comments are on the lines of public perception, past, present and future about our waterfront, our city and the Port's overall vision. AAA Magazine indicated that Fisherman's Wharf is a place that attracts and exploits visitors, calling it one of America's favorite tourist's traps. It was nicely balanced by a mention of maritime tradition and the Hyde Street Pier. On her way back on a flight on one of our major airlines, she got a copy of an article regarding the special cruise issue. She brought to the Commission's attention what some of the comments are from key cruise executives about tomorrow's cruise ships. They will be so packed with activities and entertainment that they will be destinations onto themselves

more so than the port city that they call on. Carnival Cruise's Pinnacle will dwarf the Queen Mary 2 at 210,000 gross tons, four times the displacement of the USS Iowa and 3-4 times the volume of the battleship. She encouraged the Commission to look at a sample contract for transfer of a U.S. Navy vessel to a non-profit organization. The boiler plate document will address some of the key concerns that City Hall and Port staffs have had about the berthing of the battleship: (1) non-discriminatory clauses; (2) no further place or purpose in U.S. defense policy; and (3) return of the vessel in the event of necessary events such as insolvency. She encouraged Port staff, particularly the Port counsel, to review the document as they will be providing a copy to each member of the Board of Supervisors.

Bill Stephens, HSMPS, indicated that the USS Iowa is commanding more public attention than any of the Port's project. It dwarfs the Mills project and almost any other project that he can historically think about that the Port has undertaken. They have been in every major newspaper in the country, with the editorial last week in the Examiner recommending a new vote on the Iowa and that the Mayor approve it. Next week, they will meet with the Mayor. He intends to go over all of the problems this project encountered and to forward and address all his issues. They are also meeting with Supervisor Dufty and Supervisor Maxwell to address their issues. Last fall, the Mayor of San Francisco gave the Port the go ahead to proceed with this project. This project has gotten nowhere. He intends to readdress those issues to cover the major points and concerns in the historic ships policy which seems to have snagged and tangled up this project. This formed a formidable breakwater to moving forward. At this time, they need the Commission's support. They've been here every month for almost a year. This project needs the support of this Commission. He intends to leave with the Commission the latest article that was published by the *San Francisco Examiner* entitled, "Take another Look at USS Iowa." The Commission is not an oversight commission and not an advisory commission. The Commission has every right and expectation to play a role in this decision. He also left the Commission the deck log of the USS Iwo Jima. It is a landing dock ship that participated in the Katrina Relief Effort. It's pack full of references. The President was on board. It would give the Commission an idea what the Iowa can do in an emergency. It can save lives. It can save people from serious harm. It's an emergency disaster command and control post without parallel. He will keep the Commission posted about their meeting with the Mayor as they move forward with this project.

Jim Maloney, representing the Military Education Initiative, an organization that focuses on educating the public and the veterans and others on the issue of gays and lesbians in the military and on the "Don't Ask, Don't Tell Policy" indicated that he is working with a gay Naval Academy graduate as well as a Gay West Point veteran on a new project for bringing the USS Iowa to San Francisco. Their proposal includes a museum component that will tell the stories of all veterans who have served on the USS Iowa as well as stories of all minority groups who have served in the military under often difficult and discriminatory conditions. These groups will include African Americans, Asian Americans, Native Americans, Women and LGBT Americans among others. Members of these groups served the country with honor and distinction while facing adverse circumstances. The Iowa Museum will tell these often forgotten stories and offer comprehensive, educational experience to visitors of the ship. It will chronicle civil rights advances in the military, many of which led to advances in the larger society. Their group is working in coalition with HSMPS who have been working to bring the USS Iowa to San Francisco. They

support each other's work and encouraged the Commission to consider their proposal. The USS Iowa can provide a historic platform for educating the public on minority services in the military in keeping with San Francisco values for diversity and civil rights. It will be done in accordance with the financially responsible plan at no cost to San Francisco taxpayers. He asked that the Port and the Port Commission study their proposal carefully and meet with them and discuss it in detail. Supervisors Dufty and Ammiano have both requested that they get the feedback from both the Port and the Commission about their proposal before they take a position. He requested the Commission's support in facilitating a meeting with the Port.

Ernestine Weiss was concerned about the item about the Rincon Restaurant Design proposal. When it was first presented, it was an ugly presentation. She hopes that the next time around, they will not entertain the color brown on the waterfront. They don't want to see anything dark and ugly at the site. So far, the Port has been planned in a beautiful way as far as design is concerned. She remembered taking a walk along the waterfront when they were contemplating that the front entrances to the piers should be a nice, buff color. This restaurant should adhere to that standard so it does not stand out like a sore thumb. She hopes that the Commission will keep her comments in mind when it comes up for approval.

9. EXECUTIVE SESSION

- A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Hardeman moved approval; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

At 4:35 p.m., the Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

- a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):

- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.

THIS ITEM HAS BEEN TAKEN OFF THE CALENDAR.

- As Plaintiff: The Port asserts a contract and administrative claim against West Bay Builders/D. Stewart Thompson ("Contractor"), for breach of contract and violation of City ordinances relating to Contractor's performance of Contract Nos. 2622 and 2636. Consideration and approval of proposed settlement of Port's claim whereby contractor shall agree to release \$307,500 in escrow funds

to the Port, and the balance, approximately \$83,104, to Contractor. A copy of the proposed settlement agreement is available from the Executive Secretary for the Port, pursuant to San Francisco Administrative Code Section 67.12(b)(3).

- b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case as Plaintiff)

- (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

This session is closed to any non-City/Port representative.*

- a. Property: Pier 9

Person Negotiating: Port: Peter Dailey, Director of Maritime

*San Francisco Bar Pilots: Capt. William Greig

- b. Property: Port property within the area located in the San Francisco Bay between Pier 72 and the northern most point of the Bay just south of the Richmond Bridge

Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development

*Trans Bay Cable LLC: Samuel Wehn

THIS ITEM HAS BEEN TAKEN OFF THE CALENDAR.

10. RECONVENE IN OPEN SESSION

At 5:40 p.m. the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Lazarus moved approval to adjourn executive session and reconvene in open session; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to disclose that the Commission directed Port staff to pursue settlement of an unlitigated dispute regarding Pier 14 along the terms presented by staff and the City Attorney's Office, with an expenditure cap of \$150,000. Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to disclose that the Commission voted unanimously to approve the settlement of the matter concerning West Bay Builders/D. Stewart Thompson; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to not disclose any other information discussed in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

11. COMMUNICATIONS

12. ADJOURNMENT

ACTION: Commissioner Lazarus moved approval to adjourn the meeting; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

Commission President Wilfred Hsu adjourned the meeting at 5:45 p.m.

SAN FRANCISCO PORT COMMISSION

**OCTOBER 11, 2005
MINUTES OF THE MEETING**

DOCUMENTS DEPT.

OCT 21 2005

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HON. ANN LAZARUS

**MONIQUE MOYER, EXECUTIVE DIRECTOR
AMY QUESADA, COMMISSION SECRETARY**

CITY & COUNTY OF SAN FRANCISCO

PORT COMMISSION

MINUTES OF THE REGULAR MEETING OCTOBER 11, 2005

1. CALL TO ORDER / ROLL CALL

Commission Vice President Michael Hardeman called the meeting to order at 3:15 p.m. The following Commissioners were present: Michael Hardeman, Sue Bierman, Kimberly Brandon and Ann Lazarus. Commissioner Wilfred Hsu was excused.

2. APPROVAL OF MINUTES - September 27, 2005 Meeting

The Commission Secretary mentioned that pages 7-9 were transposed.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; the minutes of the meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report: Monique Moyer reported the following:

- Fleet Week: From all accounts Fleet Week was a roaring success. The Navy couldn't have been more pleased. The waterfront was packed with people from the Agriculture Building all the way to Pier 38. The event coincided with the farmer's market. The northern waterfront was a virtual parking lot when the Blue Angels flew. The festivities were put on by several of the Port tenants as well as the Fleet Week committee. The ship viewings were well attended on Sunday and Monday. The ships will be departing tomorrow. Maritime staff worked most of the weekend. This is the first weekend where there is coverage of the Hyde Street Harbor Marina. Staffing of the harbor will now occur throughout the weekend. Port Maintenance employees were out collecting garbage and doing everything they could to make things moving and clean. It was a tremendous task as they couldn't move the garbage truck at certain points of the day. She commended them on their efforts. However, there was a little snag at Pier 94 where two vessels were berth. The vessels overwhelmed the Port's sewer line system and our plumbing division came to the rescue. Obviously, this will have an impact of the kinds of attractions we will have at that site. Staff was looking at Pier 94 as a location of last resort when the Queen Mary 2 calls at the Port in February 2007. It was clear from this past weekend that is not going to be an option. Staff will look into Pier 27 as a possible berthing location.

The Dawn Princess called at the Port today which necessitated staff to move a Navy vessel out of Pier 35. Thanks to all concerned, it was a showcase day at the waterfront.

Commissioner Hardeman commented that it was wonderful having the Blue Angels back as the cornerstone of Fleet Week. He and his wife Marina were honored to be seated at the head table at the Navy League dinner at City Hall rotunda on Sunday evening. It was a spectacular black tie event. They were equally honored to attend the reception and tour of the USS Boxer at Piers 30/32 on Monday evening. Meeting the youngsters in the Navy, Coast Guard and Marines gives him great hope for our country's future. They loved this City and our hospitality as did all the Senior Officers of all three military branches. The Port should kick it up a notch for the 25th (silver anniversary) celebration of Fleet Week next year. He thanked all the staff involved in the planning of this event, especially Renee Dunn.

- Commendation for Tony Degregoris for his heroic efforts. On September 30, 2005, there was an unfortunate event at Pier 1/2 where a two-year old girl slipped through the cables and fell into the water. It turned out that neither of her parents, who were with her, could swim. Her father saw her going through and started yelling for help. Immediately, a passerby, Tony Degregoris, jumped into the water without hesitation to rescue her and somehow called on his past lifesaving training and immediately floated on his back with the child's head resting on his shoulder over to an escape ladder. But for his quick action, it's uncertain what might have happened. Port staff's first indication that something was wrong was the sirens and went out to investigate. While staff were quite proximate, we weren't proximate enough to jump into the water. It's her honor to recognize Mr. Degregoris for his heroic efforts. He's had some attention from the news media. He is an employee of DHL and he is working now and was not able to join us today.

Commissioner Hardeman read the Certificate of Commendation to Tony Degregoris signed by Director Moyer and President Hsu: "In grateful appreciation of your heroic efforts in diving into the water at Pier 1 on Friday, September 30, 2005 to rescue a young child who had slipped into the Bay. Your quick action and concern saved the child's life. We are truly grateful for your heroism and selfless action."

Ms. Moyer also mentioned that Mr. Degregoris' stepfather sent a letter to Mayor Newsom commending Mr. Degregoris' actions but also pointing out that the Port did not have a life preserver that could be thrown to him or any way of assisting him. He was out of the water even before the Fire Department arrived at the scene. Port staff had those things in the past but they end up being stolen or vandalized. The Port's boundaries are wide open which create a lot of homeland security issues as well as safety issues. Pier 3, for example, has no barriers other than a little chain link advising people not to sit or step beyond it. Staff will have to revisit these issues and report back to the Commission.

- Commendations for Guillermo Gutierrez and Gilbert Wong for their efforts (Fire at Tait's Restaurant)

Ms. Moyer indicated that on October 4, 2005 Tait's, a crab shack at Pier 45, caught fire and two men who are employees of Boudin Bakery came to the scene and broke down the door. They opened the refrigerator and used whatever liquid they could find to put out the fire, which was incredibly noble. They were very concerned that somebody was in the building and was unable to respond. Fortunately, no one was in the building. The owners apparently had put something on the stove and knowingly left the premises to take care of another issue of some sort. They were fortunate that the two employees from Boudin were there to limit the damage. Tait's should be able to continue to operate with some minor repairs.

Commissioner Hardeman read the Certificate of Commendation to Mr. Wong and Mr. Gutierrez signed by Director Moyer and President Hsu: "In grateful appreciation for your heroic efforts in quickly extinguishing the fire at Tait's Restaurant before it spread to nearby combustible materials or storage on Tuesday, October 4, 2005. Your quick action and concern saved the restaurant and surrounding areas. We are truly grateful for your heroism and selfless action."

- Fast Track II: Fast Track II, an emergency exercise, to be held by Muni with the assistance of all the first line responders will take place on Wednesday, October 12, 2005. Several Port staff will be attending the exercise to observe.
- City Disaster Council: The council met today at 12:30 p.m. to discuss lessons learned from Katrina and all the different ways in which the City has participated. The State of California, because of its experience with earthquakes, fires and floods, has in place a statewide operation for these types of emergencies than what was in place in Louisiana. The State's system for incident management is being emulated across the nation. It may be that part of the problem was that employees in Louisiana weren't as familiar with the new protocols. There are a number of reasons that can be analyzed to look for best practices going forward which is expected to take many months. The City's emergency exercises will continue as well as Port's participation.

4. REAL ESTATE

- A. Request approval of Lease No. L-13903 with Barry & Associates, a Sole Proprietor, for office space located at Pier 9, Suite 112. (Resolution No. 05-65)

Mr. Phil Williamson, Senior Property Manager, indicated that on July 1, 2000, Port staff executed a 5-year lease with Bay World Trading (BWT). In May 2004, with Port's consent, Bay World assigned the lease to Barry & Associates, a small law firm. Under the terms of the assignment, Barry assumed the entirety of the BWT's premises and lease responsibilities with the exception of the monthly rent which was shared between the assignor and the assignee. Pacific Marine Yachts Charters (PMYC), the Port's tenant adjacent to BWT lease has a Right of First Offer to the BWT premises. When BWT informed the Port that they want to terminate their lease upon its contract expiration in June 30, 2005, the Port proceeded to inform PMYC of the rental rate of \$30.60/s.f. for that space. However, on July 29, 2005, PMYC

formally declined that offer and thereby extinguished their Right of First Offer for the space making it available for the Port to lease to another party. Instead of terminating the BWT lease upon its June 30th expiration date, unnecessarily creating a vacancy and acknowledging Barry's desire to stay on site, the Port opted to place that lease on a month-to-month basis until it concludes the neighboring tenant's right to the space. On August 5, 2005, Port staff sent Barry a new five-year lease with a commencement date of July 1, 2005, base rental rate of \$30.60 per s.f., and a net effective rental rate of \$29.64 per s.f. The new Barry lease has a retroactive start date to reflect BWT's request to terminate the master lease as of June 30, 2005.

On August 23, 2005, the Port Commission approved a new minimum net-effective rental rate for Pier 9 office space, including the Barry premises, of \$28.80. The Commission-approved net-effective rate prior to August 23, 2005 was \$31.56. As such, the Barry Lease as written requires Port Commission approval because the rental rate for the period July 1 through August 23, 2005 is below the then-current Commission approved rate.

Mr. Williams requested Commission's authorization for the Executive Director or her designee to execute a lease with Barry & Associates, a sole proprietor, in a form consistent with the terms and conditions outlined in the staff report.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 05-65 was adopted.

- B. Request approval of a ten (10) year and one-hundred-eighty (180) days lease (Lease No. L-13927) with Miller Kelley Architects, Inc., d.b.a. MK Think for the Roundhouse One Building located at 1500 Sansome Street . (Resolution No. 05-66)

Jeffrey Bauer, Senior Leasing Manager, presented the item and requested Commission's approval. The Roundhouse One Building was constructed in 1913 and is approximately 20,237 rentable square feet and is a designated City landmark as well as being listed on the National Registry of Historic Places. The building was rehabilitated and converted into an office building in the mid-1980s and has been vacant since 2002 following the issuance of an RFP and the subsequent termination of that lease with Information Radio. In 2003, the Port issued a second RFP. The Port received only one proposal which the Port Commission rejected based on, among other issues, poor economic return to the Port. The Commission instructed staff to pursue lease negotiations through direct negotiations. Over the past year, staff talked to several prospective tenants but only one of those prospects, MK Think resulted in any significant negotiations.

MK Think is a San Francisco based architectural firm that provides architecture, planning, business and project management services. The terms and conditions of the lease are as follows: Approximately 20,237 s.f. to be used for general office. The lease term shall be for a period of 10 years and 6 months commencing on the date the lease

is fully executed by both parties. Rent shall commence six months following the lease commencement date. The initial base rent shall be \$283,318 on an annual basis. The base rent shall be adjusted by CPI on an annual basis. Tenant improvements shall be approximately \$900,000 at the sole cost and expense of the tenant. Tenant shall receive a one-time rent credit of the installation of a heating, ventilation and air conditioning system not to exceed \$175,000. Tenant shall be responsible for the repair and maintenance of the interior of the building. The Port shall be responsible for the maintenance of the exterior of the building. The tenant will have a one time five-year option to extend the lease. At that time, the rent will be adjusted to the then-current market rate. Overage rent derived from either assignment or subletting shall be payable to the Port. There is a one-time brokerage fee of \$31,039 as opposed to the \$35,000 mentioned in the staff report. Staff recommends that the Commission approve Lease L-13927 for the rental of Roundhouse One with MK Think and authorize the Executive Director to forward the lease to the Board of Supervisors for approval.

Commissioner Brandon asked about the difference between the lease commencement date, the rent date and the rent commencement date. Mr. Bauer replied that when staff established the rent commencement date which is following the fully executed lease, the tenant will have a six-month period for construction. Following that period, the rent will commence. Mr. Bauer concurred with Commissioner Brandon's comments that the Port is not charging any rent during construction.

Ms. Moyer added that the significance of the two dates is that all of the other terms of the lease agreement including the insurance and indemnities are in place while the tenant is on our property.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; Resolution No. 05-66 was adopted.

5. FINANCE & ADMINISTRATION

A. Informational Presentation regarding Port's study of on-street parking patterns.

Tina Olson, Deputy Director of Finance & Administration, indicated that staff is embarking on a study to look at actual demand of parking meter spaces at the Port with an emphasis of looking at the SBC Park area and the Fisherman's Wharf Area. There are three aspects to the study: 1) study the actual demand for parking meter spaces; (2) analyze the cost to purchase and install meters that accept credit cards; and (3) conduct a survey of other jurisdictions that have parking meters that accept credit cards to learn from their experiences. Staff is in the process of contracting with StreetLine to conduct a six-month pilot project to determine the actual demand for the Port's metered parking spaces in congested areas. StreetLine has an innovative technology of surface mounted sensor units. These sensors measure occupancy and turnover constantly on every parking space. Elizabeth Sullivan from StreetLine will make a presentation to the Commission.

Elizabeth Sullivan indicated that StreetLine is a new local company; founded in San Francisco. She is also the founder of City Car Share. Todd Dexter is the founder of a technical company out of UC Berkeley. In addition to being local, StreetLine is expert in this new, emerging technology to do lower power sensor readings as well as being experts in working with progressive cities like San Francisco. They are the company that cares about cities, about making them work efficiently and making them the vibrant places that we all believe in. They intend to deliver complete information on all parking activities that happen within the location of the pilot program. They hope to support staff in making pricing policy and metering choices. They hope to demonstrate the potential of integrated solutions i.e. real time data such as StreetLine provides and smart parking sensors. There are many ideas and solutions for how parking can be managed in a more smart way.

The project will commence in November and end in April. During that time, they will do an initial test of about 20 sensors on the ground. Once that is perfect, they will do the full install of about one curb mile or 250 sensors. During the remaining part of the pilot program, there will be operations and reporting which is simply letting the Port know via reports, what's happening everyday, all day, and 24 hours on those locations. During that time, they will also be doing analysis and decision support as they look at different options that are emerging once they know what's actually happening in the parking locations, the choices become more clear. There will be study results and options. There is also integration testing which refers to the testing of the integration between StreetLine and between other potential parking meter companies, etc. She showed an animated version of the parking system. They will put down low cost sensors which detect parking events - cars come, sensors detect that they have arrived. Cars leave, sensors detect that they have gone. This is a cutting edge and new technology. Getting this perfectly right, never being wrong and having it be real time is what's going to make all the difference in terms of managing a parking system really well. These events go up via a wireless network through a central server. All the real time data and the full statistics show exactly how the parking is being used. This actual real time data is integrated with a lot of other options such as payment system, public information such as mapping, and enforcement support for Parking Control Officers (PCOs). This represents what most cities currently have in terms of the information about the resource that they have around parking. They have information about inventory, raw capacity, usage, which is somewhat anecdotal, metering, revenue received, enforcement and the number of citations given out every year. What StreetLine can do under usage is give the City actual usage numbers, the turnover rates and the duration and overstay. Under inventory, they can now tell space availability and talk about congestion. Under metering, there will be information on actual usage and unpaid usage. Under enforcement, there's obviously a way to do violations. The violation information is partial during this pilot program but it needs payment integration in order to be perfect. From there, they will look at where to focus the enforcement today. The way that violations and PCO routes happen in most cities is that they are determined beforehand and PCOs control is random. StreetLine offers pinpointing the violations and patrolling that is not random and sends PCOs directly to the violations. They are offering a lot more economic value and are able to predict and show demand for usage which is another way of planning and doing policy. There are a lot of new options once this is in place for policy, pricing and payment.

Commissioner Brandon asked how much the pilot program will cost. Ms. Sullivan replied that the program costs approximately \$10,000.

Nan Roth indicated that she frequents the northeast waterfront area around Levi's Plaza as well as the Ferry Building area. She has talked to some of the business owners regarding the parking problem. While all this sounds wonderful and esoteric and worldly, she's curious to know why the Port has not actually sat down and determined what kind of impact the latest fee increase has had on the cash flow from the existing parking meters. Her perception of what has happened is it has angered a lot of people. Driving around that neighborhood, all the Port meters for the most part is empty. People are catching on to the fact that Port meters are more expensive. It's less painful to park in the City meters than the Port meters. For instance, the first block of Lombard Street is virtually empty of people during the day and up to 7 in the evening. It struck her that one should appraise what has happened to the cash flow from these meters since the increase has put in. The policy regarding the meters should be evaluated in light of that. It should be taken into consideration before the Port embark on this study. The parameters of the study might be influenced by the findings of such an analysis. The Port should be doing an area by area basis because the nature of Fisherman's Wharf is different from the Levi's Plaza area and in many ways the Port is creating bad will in the neighborhood. The restaurants say that people repeatedly have to leave in the middle of their meals to put money in the meters because those two-hour meters are now one-hour meters. When people are dining, often they stay for more than an hour. They are subject to the inconvenience of having to go out and put money in the meter in the middle of their meal.

Ms. Moyer asked if there is anything that the Port Commissioners would like to see that is not included in the study. Ms. Roth hit a lot of the points that staff is trying to ascertain with the study. Staff's approach is doing exactly what Ms. Roth mentioned. With respect to parking rates, the Port last raised the meter rates in accordance with the raise by the City. The City has again raised its rates under the current budget and the Port elected not to raise the rates at this time. What the Port didn't do was to swap out its meter heads as the City has done to make it more convenient for a passerby. The Port, however, is considering this matter. The Port's meter price is designed to reduce commuter parking and increase the short-term visitor parking. The Port contracted with the Department of Parking and Traffic (DPT) for enforcement and we are trying to work some of the kinks. We hope that the study will help staff with its conversations with DPT.

Commissioner Brandon asked if the study will be able to determine if one-hour or two-hour meters are more feasible at certain locations. Ms. Moyer replied that is what Ms. Sullivan represented in her presentation in terms of the overage. From personal experience, if you park between the Ferry Building and SBC park on a non-game day, there is a lot of overage because in part, the meters are not appropriately priced for non-game days nor the enforcement is there. In front of Pier 1, there are 30-minute parking meters and they are abused repeatedly. Port staff have no enforcement power. The Port is depending on DPT or SFPD to help with the enforcement. The Port is very aware that there are abuses all along the waterfront. It even consists of people

consistently parking on the promenade which is illegal but the Port is a bit stymied in its abilities to enforce. Staff is open to any and all ideas.

Commissioner Lazarus asked if the Commission will get information about the new types of parking meter heads and how it will impact usage and revenues. Ms. Olson replied that is part of the study. As Ms. Roth mentioned, if the Port increases the rates, it's probably more annoying for people to carry quarters. The Port would probably like to have parking meters that take credit cards which is becoming increasingly common in congested urban cities both in the U.S. and abroad.

Ms. Moyer added that in their prior jobs, both she and Tina worked on the City project and they were surprised that the Port did not participate. This is something that they are trying to look to.

Commissioner Lazarus commented that she is not aware that the City has implemented the use of those meters. The heads are out there. Ms. Moyer replied that there are kinks along the way. The City financed the purchase and the installation which she worked on.

Ms. Olson indicated that DPT is looking into installing meter heads using debit cards similar to fast track. However, a lot of Port users are from out of town, a credit card would probably be more convenient for the visitors than a debit card. The City is looking at changing the current meter heads to meters that take not only coins but debit cards as well. It's her understanding that with the new meter heads, they can be adjusted accordingly e.g. for people who are out in the evenings eating at a restaurant or going to the theater, the meters would be for 2-4 hours. During the day when people are running errands, the meters would be adjusted to one-hour. Staff is hoping that the study will show how the Port would optimally time and price the parking meters based on actual demand.

6. PLANNING & DEVELOPMENT

A. Informational presentation on proposal by Trans Bay Cable LLC to install an electricity transmission line.

Carol Bach, Assistant Deputy Director, indicated that Trans Bay Cable is a wholly owned subsidiary of Babcock & Brown Power Operating Partners, a San Francisco-based company, in cooperation with Pittsburg Power Company, a municipal utility. The Trans Bay Cable project is designed to provide additional electricity transmission capacity and contribute to meeting San Francisco's power demand projected in 5-10 years and beyond. The project includes installing approximately 55 miles of 10-inch diameter high voltage, direct current cable beneath bay sediment between PG&E's Pittsburg substation to its San Francisco Potrero substation and construction of approximately 6-acre converter facility on the San Francisco site, at an as-yet-to be determined location. Approximately 12.5 miles of the 55 mile cable will be installed in submerged lands under Port's jurisdiction, consequently, Trans Bay Cable would require a permit to enter from the Port to conduct any geotechnical or other studies in

development of the project and subsequently, would require a license for installation and maintenance of the cable where it exists on Port property.

David Parquet, Babcock & Brown, indicated that the project is a high voltage, direct current system as opposed to alternating current transmission line between Pittsburg PG&E station and San Francisco's Potrero PG&E substation. High voltage direct current technology is different than AC in that it delivers generator-like power which is exactly what San Francisco needs to serve its load for the foreseeable future. It's considered a clean power and a more efficient method of transmitting power under bay sediments or underground for the long distances that this project will use. For example, if they want to put an AC line between Potrero and Pittsburg, it would be impossible. It would not technically work.

The California Independent System Operator (CAISO) has determined that this line and certain other reinforcements are part of an overall program that included: (1) The approval of the Jefferson/Martin line in San Mateo two years ago; (2) The approval and reaffirmation last month of the San Francisco Action Plan which includes the installation of the peakers by the Western Pacific site; and (3) The recent approval a month ago of the trans bay cable project as the three steps to ensure the long term reliability of San Francisco. The operation date of the project is scheduled to be 2009. Currently, the business structure of the project is that Babcock & Brown, through its subsidiary Trans Bay Cable LLC, owns the project. Babcock & Brown is providing all of the development funding for the project, approximately \$300 million. The City of Pittsburg will eventually own all of those assets. Babcock & Brown will finance it and Pittsburg will own it.

There are significant environmental benefits of the project: It's a clean source, there is no generation associated with the project whatsoever. They are connecting two substations on the grid. They are shortcutting power directly across from Pittsburg to San Francisco which has a couple of interesting effects: An economic benefit because power no longer has to travel around the bay, down the east bay, Newark, up from San Jose and Santa Clara up the Peninsula. It entails losses in the transmission system. Since it does not have to produce the power, it will be about 20 megawatts of losses, enough to serve 20,000 homes, is no longer needed and the emissions associated with it are no longer needed as well. The other aspect of the project is when the San Francisco peakers get installed, it will be operating near and connecting to the very same Potrero substations. It's likely those peakers will operate less. They will bring 400 megawatts of power, about 40% of what the Northern peninsula and San Francisco's needs are. It will be the opportunity to reduce the operation of the peakers when that power is coming in. That will cause the emissions in San Francisco to reduce as well in favor of more efficient operation and emissions outside of the area. There will be enhanced reliability. The homeland security issues were mentioned. It's very difficult to find this cable when it's under the bay sediment as opposed to some of the open substations and transmission lines. Security and reliability will be increased. It's not vulnerable to the same type of disasters. Major point in the ISO's approval of their project was that today all the power that is not generated in San Francisco comes through one substation on the peninsula near the airport. Today, there are two old power plants. Hopefully in the future those will be shut down and the City will have

the peaker plant. The rest of the power will come up through one substation. One of the major considerations that the ISO had in selecting their project over alternatives was connecting the loop, the better security, the better reliability. In addition to the security benefits and reliability, this is the third critical component of a long-term plan that the ISO has now fully implemented when these projects are in place: (1) The installation of the Jefferson/Martin line in the peninsula, will shut down the Hunter's Point Power Plant. PG&E have agreed to shut down the plant following the removal of that contract. (2) When the City & County of San Francisco's peakers are installed, the ISO will remove the RMR contract from the large Potrero Power Plant. That combination will serve the load, keep the lights on without disturbances until 2011. They will be shutting down about 600 megawatts of power plants. They are turning on the peakers about 180 megawatts. There will be approximately 300 megawatts of new transmission coming in from Jefferson/Martin. (3) This project will provide the load serving solution.

One of the major questions they are asked is how this project is going to impact not only San Francisco citizens but Pittsburg as well. This project goes by no residences, disturbs no businesses. There will be no impact on San Francisco or other community residences or businesses. They will implement their project labor agreements i.e. use as much as possible local content labor not only for the converter station in San Francisco but the same type of agreement for the converter station in Pittsburg. Once the transbay cable is installed, the peakers will likely operate less. One of the major considerations of the ISO was another path into San Francisco, which this project represents. Their agreements were in place with Pittsburg beginning of last year. The City of Pittsburg had issued a Notice of Preparation as lead agency under CEQA in August of last year and received no significant comments whatsoever. The Port of San Francisco was on the distribution list for that notice. The Federal Energy Regulatory Commission (FERC) approved their rates which is cost-based rates. They are turning over the entire control of this line to the CAISO exactly the way PG&E does. They don't control their lines; ISO does. All they are going to get back is their cost. The ISO approved the need for the project in September. The draft EIR will be issued in January and the final EIR will be issued in April or May of next year. If all goes according to plan, the EIR will be certified in June 2006. That will leave time for various discretionary acts by State Lands Commission, BCDC and others and the easement by the Port to be considered at that time following the certification and only if this EIR is certified. That period up until September 2006, they intend to close financing on the \$300 million project in October and commercial operation in 2009.

As far as the CEQA procedures are concerned, they have had numerous meetings with various State and City agencies, BCDC, State Lands, etc. to guide them as to where they should put the cable. URS, an experienced consultant, has been engaged to prepare the environmental documents. Lampier Gregory, a consultant that they have engaged on numerous CEQA processes is engaged as their consultant to direct the CEQA process. They intend to do a comprehensive environmental survey of the bay, followed by a geotechnical survey to determine their choices as they intend to avoid troublesome areas. Having chosen the route environmentally, they want to ensure geotechnically that they know the location of the rocks, sediments, etc. They believe

they know where they currently exist. If not, they will do magnetometer surveys to locate them and develop crossing agreements, etc.

Their scoping sessions are scheduled later this month in Pittsburg and early next month in San Francisco. They've already had numerous meetings with various interest groups and agencies. They had an open house at the Potrero Hill and another one at Hunter's Point in September. They intend to have a final open house in Pittsburg tonight. He showed the Commission pictures as to where the cables will be installed. It has taken thousands of hours of people's time to determine where the cables should go through meetings with BCDC, Army Corps of Engineers, Port staff, environmental groups and BART. The converter station at the site has been selected. It will be one of several alternatives they will choose. One of the more interesting aspects of the project is that the cable manufacturer, Pirelli, has been chosen. They are now called Prismian, an Italian company. Pirelli used to make tires. They've separated their cable business from the tire business. The cable laying vessel, Giulio Verne, will accept the manufactured cable in Naples, Italy. The cable will be composed of three separate cables, a power cable, a return cable and a fiber optic cable. The candy cane yellow striped in the large turntable will carry all 55 or 59 miles of power cable. The turntable behind it will carry the return cable. Underneath the gantry cranes on the upper deck is a small reel that will contain the fiber optic cable. All the cable will be brought over in one piece. The cable laying process is as gentle as a process as they have been able to find through their evaluations. It's one of the reasons they selected Pirelli because they are familiar with this type of process. The cable installation will take one to two months as opposed to a year or so for land based system. It will be put at the bottom of the bay called the hydroplow, a very common but relatively gentle method of installing cables. The "trivial" environmental impact is the applicant's comments. It's not to pre-suggest of any result of an EIR. Over the last year, they've learned what trivial means. Typically in the bay, there are 2-3 million cubic yards of materials that are moved on a yearly basis. In the Carquinez Straits, there are 2-3 million cubic yards of sand binding that happens on a routine basis. Five million cubic yards of materials are moved every year in the bay. This process of laying in the bay will move about 6,500 cubic yards, a "trivial" amount. Probably 90% of their environmental work would be characterized as trivial, making it less if they can do it, mitigating it if they have to. It's a gentle, easy process.

Commissioner Bierman asked when it reaches the landside, will there be hearings of some kind in the neighborhoods? Mr. Parquet replied that there will be hearings in San Francisco and Pittsburg. For example, the first scoping meeting for the project in Pittsburg will be October 19 and on November 3, there will be a meeting at the Potrero Community House. Exactly the same things will be covered. Any meetings they have in the future that are pertaining to public meetings for the project will be held in both cities.

Commissioner Bierman asked how they will notify people about those meetings. Mr. Parquet replied that the applicant sent out 25,000 mailings to the Potrero zip code and the Hunter's Point zip code. In the scoping meetings, they have a list of public agencies, responsible agencies, environmental group, etc. about 275 of them. For the

Potrero hearing, they will do newspaper announcements such as the *San Francisco Examiner*.

Commissioner Bierman mentioned that there should be postings. Mr. Parquet indicated that it is a fine idea. Postings in the newspapers might catch more attention than the mailings they do. They will certainly take that under advisement.

Commissioner Hardeman asked what the fiber optic will do to the project. Mr. Parquet replied that it allows the two converter stations to talk to each other and make sure that they are doing what they're supposed to be doing electrically on each end.

Dr. Ahimsa Sumchai, SF Bayview Newspaper, indicated that while she respects the vulnerability that the SF peninsula is faced with virtue of being placed on a peninsula and the opportunity that this transmission line provides, we have to look squarely at the reality that this project does continue our reliance on fossil fuels at a time when our climate and earth is being devastated by the impact of greenhouse gas emissions. She also disputes the statement made by the presenter. She's absolutely sure that the neighborhoods are not aware that a decision has been made about the permanent placement of the converter station near the Potrero substation. As noted in the staff report, construction of the converter station in Pittsburg and San Francisco, the location will be selected in consultation, etc. The Commission was not given information that the decision had been made prior to today's presentation. The reason she raised that point is because that converter station will convert DC current to AC current which has significant electrical magnetic fields in a community that is already beset by additive and cumulative impacts from two aging power plants and the prospect for the siting of three general electric combustion turbine peaker plants. She also thinks that it's premature to state there will not be significant environmental impacts. The laying of 55 miles of cable beneath the bay is likely to have environmental impacts on marine life but most significantly, she is concerned about the impact of human, health and safety. She was also troubled with the slide presentation that the City of Pittsburg will certify the EIR in June 2006. Former Supervisor Bierman will attest to the fact that San Francisco has a very vocal and very powerful environmental community. She is absolutely certain that this community will want a say in the molding of both the draft and the final EIR of a project of this magnitude. The jury is still out. She encouraged the project sponsors to make a more decided effort at outreach about this project. She's sure that the Bayview community is not aware that they had made a decision about the siting of the converter station.

Ernestine Weiss was impressed with the presentation. In the future, we hope to eliminate all of the above ground wiring because it's unsightly and old fashion. If it's environmentally correct, she would appreciate that it goes under the bay and underground lines would be built. She would love to see PG&E out of the picture. She wondered if we have to pay PG&E to connect with them. This project has a lot of positive benefits but it has to be viewed with the environmental impacts first before going forward with the plan.

Karen Pierce, Bayview Hunter's Point Community Advocates, disagreed with the presenter's comments that this is clean power and that there would be no generation.

There will be generation and it will occur in Pittsburg. In order for the City to get 800 new megawatts of power, there has to be generation somewhere. She wanted to make sure that the Port does not inadvertently become nimbi and say that this is wonderful because the City does not have to face those emissions that will come out of that power plant. The City of Pittsburg is going to have a power plant that will be running 24/7 in order to serve the City of San Francisco's needs. Environmental justice requires looking at the full picture and not just say our air is cleaner. What price is our cleaner air? The price is that the people in Pittsburg who live in Pittsburg because they can no longer afford to live in San Francisco, the poorer people are the ones who are going to be faced with those emissions. The project itself is wonderful for San Francisco. It may mean that we never have to run the peaker plants. We need to temper our own decisions with the fact that there are people who are going to be detrimentally injured. A much better process would be for the presenters to start with the community and include them when they are talking to the regulators. This is a backward project that is going to face a lot of problems because there are questions that still need to be answered that will be raised again and the regulators have to answer all of those.

Mr. Parquet indicated that they have not chosen a site; they have a site; however, they have committed to evaluate alternative sites. They committed that to the Mayor's office and they intend to do that. There are three sites that they are looking at in San Francisco - the primary site and two alternates. One alternate is on the Potrero power plant site and another alternate is to the south of the plant. They solicit and invite public comment as to what they think of those various sites and they are trying to do what they can to take care of those sites.

Commissioner Bierman asked if they could give the Commission and the director information along the way how and where people are being notified. Mr. Parquet indicated that they will do so. They have already given a list to the Port of the numerous public agency meetings that they have done and they will continue to do so. They sent out 25,000 mailings for the community meetings held in September.

Ms. Moyer reiterated that Commission Bierman's comment is that the Port be notified at the forefront so that the Port can also publicize those meetings. With respect to Mr. Parquet's comment about providing the Port a list, the list was given to the Port after those meetings were held. Commissioner Bierman is requesting for the Port to be notified well in advance so we can get the notice out to our constituents as well.

Mr. Garrett Evans, General Manager of the Pittsburg Power Company, indicated that as it may pertain to their community, they don't like to view themselves as poor people, they have 3000 megawatts in their community right now going 24 hours, 7 days a week. They are like the City of San Francisco trying to have some of those turned off. They have an older 600 megawatt plant that they are currently trying to remove. They have facilitated the development of 1300 megawatts in the last five years because it is cleaner and it is something that their infrastructure and their industry needs to stay in their community. Aside from the community meetings they are having tonight, this is something that the council members are fully behind and working with their different constituencies to keep them informed. It is included in their various newsletters and they are very active in trying to make sure their

community realizes that it is in their backyard and it is something they want and see the potential value to.

Commissioner Bierman indicated that it would be helpful if they see copies of notices and information. Mr. Evans replied that they will be happy to give pre-notice of any types of meetings, whether they be in Pittsburg or in San Francisco so they are fully aware of what is going on with the project.

7. NEW BUSINESS / AGENDA SETTING

Ms. Moyer noted that there are only three meetings left in this calendar year: October 25, Thursday, November 10 and December 13. We have a little bit of work to do in this calendar yet. Notably, she's asked Kathy Nakazawa to prepare quarterly report to the Commission on the status of the Illinois Street Bridge project. It will be coming to the Commission as an informational presentation at the next Commission meeting. The Java House lease will be presented to the Commission in December. Likewise, the Fisherman's Wharf fish processing lease terms. As you may recall, the Port issued ten-year leases to the fish processors at Pier 45. Those leases are all expiring. Staff will be bringing one boilerplate type lease for the Commission's approval in December and to direct staff to execute with the relevant parties. In December, other items related to the Exploratorium proposal at Pier 15/17 will be presented. At the November 10th meeting, staff plans to bring back its final recommendation with respect to berthing rates at Fisherman's Wharf. Staff has done some work but not at the level of their request which is a 25% increase. The Pier 64 cost reimbursement agreement and other items will be presented in November. Staff is looking at a date to make a presentation to the Commission with respect to the backlands. That may slip to January given the schedule for the next three meetings.

Commissioner Lazarus mentioned that she will be out of town on November 10, 2005.

8. PUBLIC COMMENT

Captain Ray Shipway, Masters Mates & Pilots, indicated that they represent almost 40 trained members who have helped Blue & Gold Fleet's Alcatraz ferry service one of the most successful national park concessions. The MMP represents the licensed captains, ticket sellers, customer assistance representatives, and the maintenance crew. Their highly trained members have contributed to the service's success by providing a reliable, safe, comfortable and pleasant experience for its visitors. For the past 8 years, Blue & Gold has generated money for the National Park Service (NPS) and the Port. Last year, Blue & Gold was the 4th largest revenue generator for the Port as a maritime tenant. Two weeks ago, NPS announced that it selected Hornblower Dining Yachts to begin contract negotiations to operate the Alcatraz service. This news from Washington rocked their unions and they are completely shocked by this selection. Hornblower's starting from ground zero with respect to putting this service together. They lack the experience to both infrastructure and the labor to operate this service. Its credentials cannot even compare to Blue & Gold. Hornblower is a non-union operator of its existing dining operation and has refused to enter into collective bargaining with them in the past. They strongly believe that the selection is a very serious mistake just like many other selections that have been made in Washington in the last few days. They wholeheartedly support Blue & Gold's protest to NPS to ensure

that a fair selection process was followed. Hornblower was probably selected based on their pie-in-the-sky proposals. They cannot be delivered once they sit down to the tables to iron out the contract for NPS. They would like the Port Commission, as a landlord for Pier 33, to hold Hornblower Dining Yachts' feet to the fire in their negotiations. This is a very complicated operation even for the existing operator such as Blue & Gold. There's a lot of risk here. He urged the Commission to carefully scrutinize any proposal changes to Hornblower Yacht's existing lease or request for rent concession since Hornblower will be replacing a highly proven operation at Pier 41 with this start-up operation. This is a highly speculative deal. He urged the Commission to consider its impact on the Port's revenues. On behalf of their members, he asked the Commission to consider the potential loss of jobs to their maritime unions. For the record, he introduced a letter signed by their unions which specifies their concerns.

Chuck Billington, Vice Chair, Inland Boatmen's Union, indicated that their union represents the deckhands on the Blue & Gold fleet. He has been here for over 30 years. He started when Alcatraz started. He was speaking on behalf of Marina Secchitano. She asked to let the Commission know that when the news about Alcatraz contract was going to Hornblower came out, she called Mr. McCrae and asked him about his intention to enter into collective bargaining agreement with their unions. He did not give her or Captain Shipway any assurance that he wanted to include their unions in the Alcatraz contract. He has made no overtures to them since that call. The silence from Hornblower makes them suspect the worst. Their members cannot believe that this is happening at the Port of San Francisco. It's like they are all living in a bad dream. How can a non-union operator like Hornblower be allowed to displace solid, maritime union jobs? Maybe this is acceptable in other parts of the country but it is not in the deeply rooted tradition of San Francisco's waterfront. This is the waterfront of our great ILWU leaders and Port Commissioners namely Harry Bridges and Jimmy Herman. The union issue which goes beyond protecting the member's livelihoods which they have an obligation to do is also related to the Port's financial interests. If the Port is going to consider rent concessions or changes the Hornblower's contract for the Alcatraz ferry, it needs to evaluate whether Hornblower can successfully operate this service without the highly skilled workforce like that of their maritime unions can provide. Labor is as important as facilities, equipment and money in the bank. Their unions have been the backbone of Blue & Gold Fleet's operation. They are proud of its record of success. He asked that the Commission do not wipe out that record of success by entering into a risky deal with a dining boat operator for one of the most profitable pieces of business that this Port currently have.

Merylin Wong, Historic Ships Memorial at Pacific Square, gave the Commission a progress report about public support where they have been and where they are going regarding bringing the USS Iowa to the Port of San Francisco and what they are doing to qualify for consideration of the pier at this Port. Continuing media coverage is confirming public interest and added community exposure is generating quite a bit of support. This past weekend with Fleet Week, they saw a surge of gifts and offers to help and support and recognize the effort to bring the battleship Iowa to the Port. They are now working concurrently with both the Board of Supervisors and the Mayor to seek resolution supporting the placement of this ship at the Port of San Francisco. By the end of this week, they will have met, discussed and interfaced with five of the eight supervisors who opposed the resolution to place the ship at the Port. Last Friday, they worked with City residents and

several City Commissioners to not only meet with Port staff to give them an update regarding the timing and availability of the ship for use as a museum and a memorial. There has been no change as they earlier testified. The ship is available sometime next month. The first application will trigger a six-month window during which all applications will have to be received. Last Friday, they met with Mayor Newsom who indicated that he would like to see the ship in person. They are arranging for him to see the battleship in Suisun Bay. As always, they have an open invitation to the Commission to see the historic and charismatic national treasure.

Commissioner Hardeman requested Ms. Ambrose with the direction of Director Moyer for staff to bring an informational presentation to the Commission regarding the changing of the Alcatraz Ferry Service at its November 10 or December 13 meeting. Ms. Moyer indicated that staff is aware of this item and intended to bring it to the Commission but getting information has been difficult. Staff will do its best to bring it to the Commission as soon as possible.

9. EXECUTIVE SESSION

- A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 4:40 p.m., the Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

- a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (3 cases):
- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.
 - Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.
 - As Plaintiff: Discussion and approval of proposed settlement of potential litigation against Miller Watts Constructors, Inc. ("Contractor," as successor to Miller Thompson, Inc.) relating to work performed on the Downtown Ferry Terminal Public Pier breakwater (also known as Pier 14 Breakwater) under Port Contract No. 2613. The Port asserts claims for defective design and construction, which Contractor disputes and denies. Proposed settlement of potential litigation upon terms which include:
(1) Contractor shall perform certain repairs to the Pier 14 Breakwater to

the satisfaction of the Port; (2) The Port shall contribute 50% of the direct costs of repairs, exclusive of design costs, not to exceed \$150,000 ("settlement amount"); (3) The Port may purchase up to an additional 1,000 tons of stabilization rock at the settlement rate of \$35.48 per ton, for a total additional cost of \$35,480 above the settlement amount; (4) Contractor shall warrant its workmanship for one year with regard to those certain repairs described as the Panel Repair; (5) Upon certification of Contractor's completion of the repair work, the Contractor and the Port shall mutually release each other from all claims related to construction of the Pier 14 Breakwater and the repair work, except as provided by the Repair Agreement and Full and Final Release (the settlement agreement); and (6) The Port reserves all rights with respect to all work performed by Miller Watts other than the Breakwater.

A copy of the proposed settlement agreement is available for inspection from the Commission Secretary for the Port, pursuant to San Francisco Administrative Code Section 67.12(b)(3).

- (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

- a. Property: Pier 80
Person Negotiating: Port: Jill Simpson-Rodby, Maritime Marketing Manager
*DNE: Dan Jones
- b. Property: Pier 54
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*Water Transit Authority: Steve Castleberry

10. RECONVENE IN OPEN SESSION

At 5:40 p.m. the Commission withdrew from executive session and reconvened in open session.

ACTION: Commissioner Lazarus moved approval to adjourn executive session and reconvene in open session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Brandon moved approval of the proposed settlement of potential litigation against Miller Watts Constructors, Inc. relating to work performed on the Pier 14 breakwater under Port Contract No. 2613 upon the material terms set forth in the agenda for this meeting and upon such further terms approved by the City Attorney's office and Executive Director provided that they do not substantially alter the risk of liability to the Port; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Lazarus moved approval to not disclose any other information discussed in executive session; Commissioner Brandon seconded the motion. All of the Commissioners were in favor.

11. COMMUNICATIONS

12. ADJOURNMENT

ACTION: Commissioner Brandon moved approval to adjourn the meeting; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commission Vice President Michael Hardeman adjourned the meeting at 6:29 p.m.

SAN FRANCISCO PORT COMMISSION

Wilfred Hsu, President
Michael Hardeman, Vice President
Sue Bierman, Commissioner
Kimberly Brandon, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
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AGENDA

REGULAR MEETING

3:00 P.M. TUESDAY, OCTOBER 11, 2005

PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

1. CALL TO ORDER / ROLL CALL

DOCUMENTS DEPT.

2. APPROVAL OF MINUTES - September 27, 2005 Meeting

OCT - 7 2005

3. EXECUTIVE

SAN FRANCISCO
PUBLIC LIBRARY

A. Executive Director's Report

- Fleet Week
- Commendation for Tony Degregoris for his heroic efforts
- Commendations for Guillermo Gutierrez and Gilbert Wong for their efforts (Fire at Tait's Restaurant)

10-07-05 P04-25 RCVD

4. REAL ESTATE

A. Request approval of Lease No. L-13903 with Barry & Associates, a Sole Proprietor, for office space located at Pier 9, Suite 112. (Resolution No. 05-65)

B. Request approval of a ten (10) year and one-hundred-eighty (180) days lease (Lease No. L-13927) with Miller Kelley Architects, Inc., d.b.a. MK Think for the Roundhouse One Building located at 1500 Sansome Street. (Resolution No. 05-66)

5. FINANCE & ADMINISTRATION

- A. Informational Presentation regarding Port's study of on-street parking patterns.

6. PLANNING & DEVELOPMENT

- A. Informational presentation on proposal by Trans Bay Cable LLC to install an electricity transmission line.

7. NEW BUSINESS / AGENDA SETTING

- ◆ New Business

- ◆ Agenda Setting (Targeted Commission meeting, subject to change)

- Informational Status Report regarding the Illinois Street Bridge Project (October 25, 2005)
- Informational Presentation on Rincon Park Restaurants design development (October 25, 2005)
- Request approval of Pier 38 Settlement Agreement (October 25, 2005)
- Request approval of lease with Java House (October 25, 2005)
- Request approval of lease amendment with Inspection Services at Pier 26 (October 25, 2005)
- Request approval of Fisherman's Wharf Fish Processing lease terms at Pier 45, Sheds B and D (October 25, 2005)
- Request adoption of Hyde Street Harbor/Fisherman's Wharf Harbor Berthing Rate Increases for Fiscal Year 2005-2006 (November 10, 2005)
- Request approval of Pier 64 Cost Reimbursement Agreement (November 10, 2005)
- Request authorization to execute month-to-month lease with the Chinese Chamber of Commerce doing business as Southwest Airlines Chinese New Year Festival and Parade located at Piers 27 and 29 (December 13, 2005)
- Request approval of findings for the Pier 15/17 Maritime Transition Plan (December 13, 2005)
- Request approval of lease amendment of Pacific Marine Yachts Charters (PMDY) (December 13, 2005)
- Request approval of Exclusive Right to Negotiate Agreement with the Exploratorium (December 13, 2005)
- Request approval of amendment to Muni Bus Shelter Contract (Date to be determined)
- Review of proposed design for Abraham Lincoln Brigade monument (Date to be determined)
- Request approval of MOU with San Francisco Public Utilities Commission for Solar Project for Pier 96 (Date to be determined)
- Request approval of MOU with San Francisco Public Utilities Commission for the Western Pacific Property (Date to be determined).

8. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

9. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS. (Discussion and/or Action Items)

a. Discuss existing and anticipated litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (3 cases):

- City and County of San Francisco v. Pacific Cement Company LLC et al, San Francisco Superior Court No. 443-263.
- Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.
- As Plaintiff: Discussion and approval of proposed settlement of potential litigation against Miller Watts Constructors, Inc. ("Contractor," as successor to Miller Thompson, Inc.) relating to work performed on the Downtown Ferry Terminal Public Pier breakwater (also known as Pier 14 Breakwater) under Port Contract No. 2613. The Port asserts claims for defective design and construction, which Contractor disputes and denies. Proposed settlement of potential litigation upon terms which include: (1) Contractor shall perform certain repairs to the Pier 14 Breakwater to the satisfaction of the Port; (2) The Port shall contribute 50% of the direct costs of repairs, exclusive of design costs, not to exceed \$150,000 ("settlement amount"); (3) The Port may purchase up to an additional 1,000 tons of stabilization rock at the settlement rate of \$35.48 per ton, for a total additional cost of \$35,480 above the settlement amount; (4) Contractor shall warrant its workmanship for one year with regard to those certain repairs described as the Panel Repair; (5) Upon certification of Contractor's completion of the repair work, the Contractor and the Port shall mutually release each other from all claims related to construction of the Pier 14 Breakwater and the repair work, except as provided by the

Repair Agreement and Full and Final Release (the settlement agreement); and (6) The Port reserves all rights with respect to all work performed by Miller Watts other than the Breakwater.

A copy of the proposed settlement agreement is available for inspection from the Commission Secretary for the Port, pursuant to San Francisco Administrative Code Section 67.12(b)(3).

- (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

- a. Property: Pier 80
Person Negotiating: Port: Jill Simpson-Rodby, Maritime Marketing Manager
*DNE: Dan Jones

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 80.

- b. Property: Pier 54
Person Negotiating: Port: Peter Dailey, Deputy Director of Maritime
*Water Transit Authority: Steve Castleberry

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 54.

10. RECONVENE IN OPEN SESSION

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.
- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

11. COMMUNICATIONS

Communications to the Port Commission received from September 23, 2005 to October 6, 2005:

- From the Potrero Boosters Neighborhood Association, regarding the Potrero Community Voice Newsletter
- From Jacob Sigg, California Native Plant Society, regarding the Living Classroom Project
- From Melita Rines, regarding the Living Classroom Project

- From Terri Shore, Bluewater Network, Marine Fuels Fact Sheet
- From Peter Brastow, Nature in the City, regarding the Living Classroom Project
- From Port staff, Fiscal Responsibility and Feasibility Report regarding the Proposed Piers 27-31 Mixed Recreation Project
- From Bill Stephens, Historic Ships Memorial at Pacific Square, San Francisco Examiner article regarding the USS Iowa
- From Bill Stephens, tales of the USS Iwo Jima doing relief work in New Orleans after Hurricane Katrina and What the USS Iowa can do in an Emergency
- From Merylin Wong, a copy of a "sample" contract regarding the donation of a vessel
- From Merylin Wong, copy of the United Airlines' Hemispheres Cruise Issue, regarding cruise ships
- From Paul Osmundson, San Francisco Cruise Terminal LLC, regarding CTEAC recommendations regarding air quality, shore side power & alternative air emission technologies for the James R. Herman International Cruise Terminal
- From the Neighborhood Parks Council, invitation to the Fourth Annual Gala at Lafayette Park on October 11, 2005
- From Consulado General de Ecuador, invitation to welcome the Ecuadorian Naval Training Ship, "Buque Escuela Guayas" to the San Francisco, on October 27, 2005
- From the Controller's Office, Concession Audits: Alioto Fish Company, Ltd, Andre-Boudin Bakeries, Inc., SFO Forecast Inc. dba Cioppino's Restaurant, D&G Company LLC dba Lou's Pier 47, Fisherman's Grotto and The Pollack Group, Ltd. dba Nick's Lighthouse

12. ADJOURNMENT

OCTOBER/NOVEMBER/DECEMBER 2005
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
Tuesday, Oct. 11	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Tuesday, Oct. 25	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Thursday, Nov. 10	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Tuesday, Dec. 13	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. *The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.* Contact Amy Quesada at 274-0406.

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Central Waterfront Advisory Group meets monthly on an as-needed basis generally on the 3rd Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or via email @ Mark_Paez@sfport.com.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets jointly with BCDC's Design Review Board on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. or the Committee meets as needed on the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625.

The Port Permit Appeals Committee meets regularly on the first Thursday of June and December of the year. For further information contact Ed Byrne at 274-0570 or Dan Hodapp at 274-0625.

ACCESSIBLE MEETING INFORMATION

Ferry Building: The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

- A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
- B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets.
- C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. & Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine/>

Lobbyist Registration and Reporting Requirements. Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.



MEMORANDUM

October 4, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director

SUBJECT: Request for authorization to approve Lease No. L-13903 with Barry & Associates, a Sole Proprietor, for office space located at Pier 9, Suite 112.

DIRECTOR'S RECOMMENDATION: Authorize the Executive Director or her designee to execute a lease with Barry & Associates, a Sole Proprietor in a form consistent with the terms and conditions outlined in this Staff Report and Resolution No. 05-65

BACKGROUND

On July 1, 2000, the Port executed a 5-year Lease with Bay World Trading ("BWT") for 2,336 square feet of office space at Pier 9, Suite 112. The lease termination date was June 30, 2005. The BWT Lease was negotiated near the peak of the "dot com" era as evidenced by the CPI-adjusted \$40 annual rent. As office market rents declined following the dot com bust in 2001, BWT unsuccessfully requested a reduction in their rent. In April 2004, BWT requested Port's consent to an assignment of their lease to Barry & Associates ("Barry"), a small law firm. Port approved the assignment on May 13, 2004. Under the terms of the assignment, Barry assumed the entirety of the BWT Lease save for the monthly rent obligation. Barry's rent per the assignment was \$23 with BWT making up the \$17 remainder of the \$40 rent.

Pacific Marine Yacht Charters ("PMYC") is the Port's tenant adjacent to the BWT Lease premises. PMYC's Lease provides for a Right of First Offer for the BWT premises upon the termination of the BWT Lease. In early 2005, BWT informed the Port of their desire to terminate the Lease upon its June 30, 2005 termination date. Upon learning of BWT's desire to terminate, the Port initially informed PMYC that they were not eligible to exercise their Right of First Offer due to an account arrearage issue. Subsequently, the Port agreed to recognize PMYC's Right of First Offer pending resolution of their account arrearage. The Port then informed PMYC of the rental rate for the BWT premises, i.e. \$30.60. On July 29, 2005, PMYC formally rejected the Port's proposed rental rate and thereby extinguished their Right of First Offer.

THIS PRINT COVERS CALENDAR ITEM NO. 4A

Instead of terminating the BWT Lease on June 30, 2005 and unnecessarily creating a vacancy, and with knowledge of Barry's desire to continue leasing the premises effective July 1, 2005, the Port placed the BWT lease on "No-Bill" status until the PMYC Right of First Offer issue was conclusively resolved. During this period, Barry continued to occupy the BWT premises as the Assignee. As noted above, PMYC's Right of First Offer was formally extinguished on July 29, 2005. On August 5, 2005, Port staff sent Barry a new 5-year lease with a commencement date of July 1, 2005, a base rental rate of \$30.60 and net effective rental rate, after allowable rent credits, of \$29.64. The new Barry Lease has a retroactive start date to reflect BWT's request to terminate the master lease as of June 30, 2005.

On August 23, 2005 the Port Commission approved a new minimum net-effective rental rate for Pier 9 office space, including the Barry premises, of \$28.80 (Resolution No. 05-57). The Commission-approved net-effective rate prior to August 23, 2005 was \$31.56. As such, the Barry Lease as written requires Port Commission approval because the rental rate for the period July 1 through August 23, 2005 is below the then-current Commission approved rate.

RENT CREDITS FOR NEW FLOOR AND WALL COVERINGS

The existing floor and wall coverings have not been upgraded since July 2000 and are currently in a worn-out condition.

Barry is requesting a rent credit to install new floor coverings. The total available rent credit would be \$6,220.00 (\$2.50 PSF). Barry is also requesting a rent credit to install new wall coverings. The total available rent credit for this item would be \$6,220.00 (\$2.50 PSF). These rates and credits are consistent with the Port Commission approved rent credit for new floor coverings available to the Port's fully serviced office tenants.

Tenant shall install the floor and wall coverings no later than June 30, 2006. Once certified, the rent credits for floor and wall coverings will be applied against one-half (1/2) of the tenant's monthly rent obligation, in successive months until fully applied. The tenant will be solely responsible for any and all costs in excess of the available rent credits or the \$5.00 PSF rent credit, whichever is lower. In no event will the tenant be entitled to rent credits exceeding its actual Port certified expenditures.

RECOMMENDATION

Authorize the Executive Director or her designee to execute a lease with Barry & Associates, a Sole Proprietor, in a form consistent with the terms and conditions outlined in this staff report and the attached Resolution No. 05-65.

Prepared by: Phil Williamson, Senior Property Manager

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 05-65

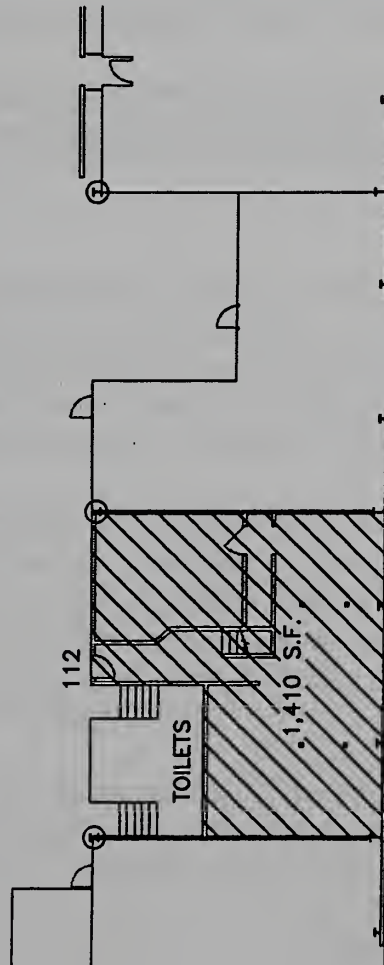
- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, Barry & Associates, a Sole Proprietor (hereafter referred to as "Barry"), proposes and Port Staff agrees to a five-year lease for approximately 2,488 square feet of office space at Pier 9, Suite 112, commencing on July 1, 2005; and
- WHEREAS, Barry will pay to the Port a monthly base rent of \$6,344.00 with an annual CPI-based rental rate adjustment; and
- WHEREAS, On August 23, 2005 by Resolution No. 05-57, the Port Commission approved a new minimum net-effective rental rate for Pier 9 office space including the Barry premises; and
- WHEREAS, The Barry Lease as proposed requires Port Commission approval because the rental rate for the period July 1 through August 23, 2005 is below the then-current Commission approved rate; and
- WHEREAS, The existing floor and wall coverings have not been upgraded since July 2000 and are currently in a worn-out condition; and
- WHEREAS, Barry proposes, and the Port agrees, to rent credits for new floor coverings at \$2.50 per square foot, totaling \$6,220.00, and new wall coverings at \$2.50 per square foot, totaling \$6,220.00; now, therefore, be it
- RESOLVED, that the Port Commission hereby authorizes the Executive Director or her designee to approve Port Lease No. L-13903 with Barry & Associates, a sole proprietor, for that portion of Pier 9, subject to the provisions set forth in the staff report on file with the Secretary of the Port Commission, and as provided in the form as approved by the Office of the City Attorney.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 11, 2005.

Secretary



PIER 9



DAVID BARRY AND ASSOCIATES
FIRST FLOOR = 1,410 S.F.
MEZZANINE = 1,078 S.F.
TOTAL AREA = 2,488 S.F.

EXHIBIT A

INITIALS: PORT pxv TENANT DB

THE EMBARCADERO

PIER 9

LOCATION PLAN

LEASE NO.

L-13903

TENANT:

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO

DAVID BARRY & ASSOCIATES
A SOLE PROPRIETOR

DRAWN BY: S. CHU DATE: AUGUST 2, 2005

CHECKED BY: SCALE:

PLACE CODE NO. 1090-0-0000 SHEET NO. OF SHEETS

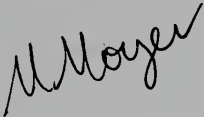
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MEMORANDUM

October 6, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director 

SUBJECT: Approval of a ten (10) year and one-hundred-eighty (180) days lease (Lease Number L-13927) with Miller Kelley Architects, Inc., d.b.a. MK Think for the Roundhouse One Building Located at 1500 Sansome Street.

DIRECTOR'S RECOMMENDATION: Approve ten (10) year and one-hundred-eighty (180) days lease (Lease L-13927) with Miller Kelly Architects, Inc., d.b.a. MK Think

I. HISTORY

The Port of San Francisco owns the Roundhouse One Building, located at 1500 Sansome Street on the Embarcadero. The Roundhouse One Building, constructed in 1913, is approximately 20,237 rentable square feet and is a designated City Landmark as well as being listed on the National Register of Historic Places. The historic building was rehabilitated and converted into an office building in the mid-1980s and is currently vacant.

In 1999, the Port issued a Request for Proposals (RFP) for a ten (10) year lease of the Roundhouse One Building. The Port awarded a ten (10) year lease to IN Radio, LLC ("IN Radio"). IN Radio took possession in the Spring of 2000 and commenced construction of a \$3.5 million remodel of the Roundhouse One Building for use as a satellite radio broadcast studio. Due to changing economic conditions, the tenant defaulted under the lease. The Port terminated the lease with IN Radio in 2002.

On December 17, 2003, by Resolution No. 03-73, the Port Commission authorized staff to issue another Request for Proposals (RFP) to lease Roundhouse One. Responses to the RFP were due on April 28, 2004. The Port undertook an extensive advertising campaign

This Print Covers Calendar Item No. 4B

targeting twelve (12) periodicals to promote Roundhouse One's availability and describe the site's unique characteristics. Despite this effort, the Port received only one proposal. The Port Commission rejected the sole RFP respondent based on:

- 1) Insufficient economic return to Port;
- 2) Questionable use in the area; and
- 3) Length of lease term.

Because the RFP generated only a single proposal and because that proposal fared poorly, the Port Commission, at the recommendation of Port staff, directed Real Estate staff to pursue potential tenants for the space through direct negotiations.

Over the past year the Port has engaged in discussions with three prospective tenants. Only one of these prospects resulted in significant negotiations. In June 2005, Miller Kelley Architects, Inc. d.b.a. MK Think made a proposal and the Port engaged in direct negotiations for Roundhouse One. The result of these negotiations is the proposed Lease L-13927 (the "MK Think Lease"). MK Think is a San Francisco based architectural firm that provides architecture, planning, business and project management services. MK Think's client list represents a diverse range of high profile businesses such as Stanford University, General Motors, and Children's Hospital in Oakland. The terms and conditions of the lease are set forth below.

II. THE PROPOSAL

- Tenant: Miller Kelley Architects, Inc., d.b.a. MK Think
- Premises: Approximately 20,237 rentable square feet, (Attachment Exhibit A).
- Use: The Premises shall be used for general office and for no other purpose.
- Term: The lease term shall be for a period of ten (10) years and 180 days
- Lease Commencement Date: Commencing on the date the lease is fully executed by both parties.
- Rent Commencement: Rent shall commence one hundred (180) days following the lease commencement date.
- Base Rent: The initial annual base rent shall be \$14.00 per rentable square feet (\$1.17 per rentable square feet per month) on a modified net basis. Base Rent will be adjusted annually by CPI.
- Tenant Improvement: Tenant improvements shall be completed at the sole cost and expense of the tenant in the amount of approximately \$900,000. Under the lease, the Tenant agrees to provisions that require any alterations to comply with the Secretary of the Interior's Standard for the Rehabilitation of Historic Buildings, and San Francisco

Planning Code requirements for review and approval of any Certificate of Appropriateness that may be determined by the San Francisco Planning Department to be required for exterior alterations for designated City Landmark buildings. Tenant is required to provide to the Port a payment and performance bond equal to 1-½ times the amount of the tenant improvements.

- Rent Credit: Tenant shall receive a one time rent credit for the installation of a HVAC system not to exceed \$175,000.
- Tenant's Responsibilities: Tenant shall be responsible for repair and maintenance of the interior of the building during the entire term of the Lease including all tenant improvements, mechanical systems, doors, windows and glazing, telecommunications systems, utilities, janitorial services, scavenger services, HVAC maintenance and security.
- Port Responsibilities: Port shall be responsible for repair and maintenance of the exterior of the building including building foundation, exterior walls, roof and drains, landscaping, and exterior common area maintenance.
- Security Deposit: The terms shall provide for a Letter of Credit in an amount equal to two (2) months' Base Rent to be held by the Port for the entire term and any extension of the lease.
- Right to Extend: Port shall grant tenant one (1) five-year option to extend the term of the Lease with at least twelve months' written notice to the Port prior to the termination date of the original lease term. At the commencement of the option period, the Base Rent shall be adjusted to the current market rental rate for similarly situated office properties as reasonably determined by the Port.
- Assignment and Subletting: Port shall allow assignments or subletting with prior written approval which shall not be unreasonably withheld by Port. All overage rents, derived from either assignment or subletting, shall be payable to the Port. Overage rent is defined as the difference between the sublease rent being paid by the subtenant and the base rent being paid by Tenant, less 1) brokerage commissions, marketing costs, and reasonable attorney fees incurred by the tenant in the sublease transaction amortized over the term of the sublease; and 2) the cost of the tenant improvements incurred by the tenant amortized over the entire lease term on a on a straight line basis plus interest at 6% over a ten-year period.
- Brokerage Fee Policy: Port shall pay a brokerage fee pursuant to the Port Commission Brokerage Fee Policy in the amount of \$35,000. Tenant will be responsible for any additional commissions or fees. The Brokerage Fee Policy was adopted on November 7, 1997 attached hereto as Exhibit B.

The proposed office use would continue the same use that has occupied this historic building since it was rehabilitated in the 1980's. The project complies with requirements under the California Environmental Quality Act (CEQA) pursuant to a General Rule Exclusion issued by

the San Francisco Planning Department's Major Environmental Analysis office, which allows the Port to approve new leases that continue an existing land use, with no substantial physical changes to the site or substantial intensification of use.

III. RECOMMENDATION

Staff recommends that the San Francisco Port Commission approve Lease L-13927 for the rental of Roundhouse One with Miller Kelley Architects, Inc., d.b.a. MK Think (the "MK Think Lease") and authorize the Executive Director or her designee to forward the MK Think Lease to the Board of Supervisors of the City and County of San Francisco for approval and upon the effectiveness of such approval to execute said lease number L-13927 with Miller Kelley Architects, Inc. d.b.a. MK Think for the rental of Roundhouse One located at 1500 Sansome Street in the City and County of San Francisco for a term of ten (10) years and one-hundred-eighty (180) days with one (1) five-year option and subject to the additional terms and conditions set forth in said Lease.

Prepared by: Jeffrey A. Bauer, Senior Leasing Manager

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 05-66

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of the City and County of San Francisco; and
- WHEREAS, the Roundhouse One Building located at 1500 Sansome Street in the City and County of San Francisco ("Roundhouse One"), is a general office building that is currently vacant and is within the Port's jurisdiction; and
- WHEREAS, Port Commission policy encourages competitive bidding of economic opportunities unless impractical or impossible and the Port Commission authorized Port staff to issue a Request For Proposals (the "RFP") for the lease of Roundhouse One; and
- WHEREAS, Port staff received one proposal to the RFP which the Commission found to have insufficient economic return to the Port, a questionable use, and an unrealistic lease term; and
- WHEREAS, the Port Commission subsequently directed Port staff to pursue potential tenants through direct negotiations; and
- WHEREAS, the Port Staff has negotiated a Lease at Roundhouse One with Miller Kelley Architects, Inc., d.b.a. MK Think (the "MK Think Lease") for general office use for a term of ten (10) years and one-hundred-eighty (180) days with one (1) five-year option to extend; and
- WHEREAS, the San Francisco Planning Department's Major Environmental Analysis division issued to the Port a General Rule Exclusion, which satisfies environmental review requirements under the California Environmental Quality Act (CEQA), for Port actions to enter into new leases where there would be a continuation of an existing use with no substantial physical changes to the site or substantial intensification of use; and
- WHEREAS, as the Roundhouse Building is a designated City Landmark and listed on the National Register of Historic Places, the Tenant agrees to lease provisions requiring any interior and exterior alterations to comply with the Secretary of the Interior's Standards for Historic Rehabilitation, and to comply with any requirements, as determined by the San Francisco Planning Department, for a Certificate of Appropriateness; and

WHEREAS, the MK Think Lease requires both approval by the Port Commission and the Board of Supervisors of the City and County of San Francisco (the Board of Supervisors) pursuant to Charter Section 9.118(c); now, therefore be it

RESOLVED, that the Port Commission hereby approves Lease L-13927 for the rental of Roundhouse One with Miller Kelley Architects, Inc, d.b.a. MK Think, and authorizes and directs the Executive Director or her designee to forward the MK Think Lease to the Board of Supervisors for approval, pursuant to its authorization under Charter Section 9.118(c), and upon the effectiveness of such approval, to execute the MK Think Lease, and now, be it further

RESOLVED, that the Port Commission authorizes the Executive Director or her designee to execute and enter into any additional documents including non-material modification to the MK Think Lease, as she deems necessary or appropriate, in consultation with the City Attorney, to consummate the transactions contemplated hereby or to otherwise effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director or her designee of any such documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of October 11, 2005.

Secretary

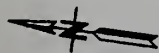


EXHIBIT A

INITIALS: PORT: _____ TENANT: _____ DATE: _____



GROUND FLOOR
GROSS AREA=11,805 SQ. FT.



MEZZANINE
GROSS AREA=8,432 SQ.FT.

ROUNDHOUSE ONE 1500 SANSOME ST

DRAWN BY: ECC	DATE: OCT 3, 2005
CHECKED BY: J. BAUER	SCALE: 1" = 40'
PLACE CODE NO.	SHEET NO.
3180-01	OF SHEETS

LEASE NO.	TENANT
L---	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING

EXHIBIT "B"

PORT OF SAN FRANCISCO

MEMORANDUM

October 29, 1997



Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Telex 275940 PSF UR
Fax 415 274 0528
Cable SFPORTCOMM
Writer

TO: MEMBERS, PORT COMMISSION
Hon. Michael Hardeman, President
Hon. Denise McCarthy, Vice President
Hon. Frankie G. Lee
Hon. James R. Herman
Hon. Kimberly Brandon

FROM: Douglas F. Wong *[Signature]*
Executive Director

SUBJECT: Amendment to Policy for Payment of Brokers' Commission

DIRECTOR'S RECOMMENDATION: ADOPT AMENDMENT TO POLICY FOR PAYMENT OF BROKERS' COMMISSIONS

BACKGROUND

On September 8, 1993, the Port Commission approved a Policy for Payment of Brokers' Commissions through Resolution No. 93-151. With the exception of month-to-month tenancies, commissions for leases were based on three percent (3%) of the gross rentals payable for the first, second and third years of a lease, plus two percent (2%) of the rental for the fourth and fifth years of a lease, plus one percent (1%) of the rental for the next five years. The policy provided for a minimum commission of \$250.00

On September 26, 1995, the Port Commission approved an Amendment to the Policy for Payment of Brokers' Commissions through Resolution No. 95-80. The effect of that amendment was to revise the commission schedule to six percent (6%) of rent collected for the first and second years of a lease, five percent (5%) for the third year, four percent (4%) for the fourth and fifth year, and two and one half percent (2.5%) for lease years six through ten.

Since the adoption of that Resolution, the commercial real estate market in the City and County of San Francisco has improved dramatically. Demand for vacant facilities is very high and rental rates are rising. Currently the Port has only a few marketable vacant facilities. Nonetheless, the Port Real Estate and Asset Management staff believes that the San Francisco real estate brokerage community plays a beneficial role in assisting the Port in meeting its leasing goals, but the commission rates now no longer reflect the current real estate leasing environment. Several large

THIS PRINT COVERS CALENDAR ITEM 5C

real estate holding companies in the City have reduced their commission schedule rates. Additionally, the current Policy does not clearly state the appropriate commission schedule for prepaid and deferred lease transactions or the application of rent credits to the net effective rent to the Port. Accordingly, staff requests Commission approval of an amendment to the Policy for Payment of Brokers' Commissions which would modify and clarify the rate Schedule as set forth in Section 3 of the Policy for Payment of Brokers' Commissions as follows:

RATE SCHEDULE: 2.5% of rents for lease years 1 through 5, net of any rent credits, cost of living increases and adjustments of rent to market.

For leases with terms in excess of five (5) years, rents for lease years 1 through 5 shall be calculated as follows: The lesser of 2.5% of rents for lease years 1 through 5, net of any rent credits, cost of living increases and adjustments of rent to market or the imputed rent for each of the first five (5) lease years which shall be calculated as a fraction of the total rent exclusive of rent credits and unquantified rent escalations (CPI, market rate, etc.) to be paid over the term of the lease, the numerator of which shall be one (1) and the denominator of which shall be the total number of years in the lease term.

As an illustration, a lease with a 15 year term with total net rents (exclusive of rent credits, cost of living increases, and adjustment of rent to market) over the fifteen years of \$300,000.00 would have an imputed annual rent of \$20,000.00 per year and would be calculated as follows:

Total Net Rent over term of lease:	\$300,000.00
Times a fraction the numerator of which is one (1) and the denominator of which is the total number of years in the term (In this illustration that denominator is 15):	x 1/15

Imputed Annual Rent	<u>\$ 20,000.00</u>
---------------------	---------------------

Therefore the commission owed for this illustrative lease would be 2.5% of \$20,000 per year over lease years 1 through five.

Lease Year	Imputed Rent	Commission Rate	Commission
1	\$20,000	2.5%	\$ 500.00
2	\$20,000	2.5%	\$ 500.00
3	\$20,000	2.5%	\$ 500.00
4	\$20,000	2.5%	\$ 500.00
5	\$20,000	2.5%	<u>\$ 500.00</u>
Total Commission			\$2,500.00

To clarify the Port's Policy regarding the Payment of Brokers' Commissions, staff also recommends that Section 5 (a) of the Policy for Payment of Broker Commissions be modified in its entirety to read as follows:

"5. LIMITATIONS ON PAYMENT OF COMMISSIONS

- (a) No commission shall be payable for leases awarded pursuant to a Port Commission Request for Proposals ("R.F.P."), Request for Bid ("R.F.B.") or sole source negotiation resulting directly from a Request for Qualifications ("R.F.Q.").

All other provisions of the Port Commission Policy on the Payment of Brokers' Commissions adopted pursuant to Port Commission Resolution 93-151 would remain in effect and unmodified including, but not limited to, the manner of payment, conditions on payment of Commissions. A copy of the Port Commission Policy for Payment of Brokers' Commissions is attached for reference.

Prepared by: Nicolas Dempsey, Commercial Property Manager, Leasing

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO
RESOLUTION No. 97-98**

- WHEREAS,** Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage and regulate the control of the Port area of San Francisco, which use and management includes the granting of leases and franchises for the use of Port properties; and
- WHEREAS,** in order that the Port may compete more effectively in the commercial and industrial leasing market, the Port Commission approved a Policy for Payment of Brokers' Fees in September of 1993 through Resolution No. 93-151 which provided for payments of commissions to licensed brokers for their services in procurement of tenants for Port properties; and
- WHEREAS,** the Port Commission desires to clarify that Policy as it relates to the payment of commissions for leases resulting from Port Commission Requests for Proposals, Requests for Bids and Requests for Qualifications; and
- WHEREAS,** in order to continue to encourage the brokerage community to participate in the Port's leasing activities, Staff recommends that the Commission Rate Schedule be modified to reflect commission rate schedules currently in use by the private sector; now therefore be it
- RESOLVED,** that the San Francisco Port Commission hereby approves the modified Rate Schedule and Limitations on Payment of Commissions as set forth in Agenda Item No. 5C at its meeting on November 7, 1997.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of November 7, 1997.


Secretary

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO PORT COMMISSION

POLICY FOR PAYMENT OF BROKERS' COMMISSIONS

RESOLUTION NO. 93.151

WHEREAS, Charter Section 3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage and regulate and control the Port area of San Francisco, which use, conduct and management includes the granting of leases and franchise for the use of Port properties; and

WHEREAS, In order that the Port may compete more effectively in the commercial leasing market, this Commission desires to pay licensed brokers for their services in procurement of tenants for Port properties;

NOW, THEREFORE BE IT RESOLVED, that this Commission hereby authorizes payment of commissions to licensed real estate brokers for procurement of tenants for Port properties and facilities upon the following terms and conditions:

1. COMMISSIONS - WHEN ENTITLED. When a broker presents a client to the Port, which is to be evidenced by written registration of the client and the broker with the Port on the registration form provided by the Port, and the client leases property in an instance in which the Port does not call for bids or proposals for the lease of said property, a commission computed in accordance with Section 3 below shall be paid to the broker if otherwise entitled thereto pursuant to this resolution. In order for a broker to be entitled to a commission for the lease of Port property, both the broker and the prospective lessee must sign the registration form, the form must indicate on its face that the broker is the prospective lessee's sole and exclusive agent in dealings relating to the subject property.

2. DETERMINATION OF PORT. The determination of when and if property of the Port should be leased, and the terms thereof, are decisions to be made solely and exclusively by the Port and no obligation is imposed upon the Port to pay any commission by reason of the fact that a broker presents to the Port a proposal for the lease of Port property. The Port's decision to enter into a lease may be based on the proposed use, the financial offer, the creditworthiness of the prospective tenant and any other factors deemed relevant in the Port's sole discretion. The obligation to pay a commission arises only when a lease is signed and a deposit, including but limited to first months rent, is paid.

3. CALCULATION OF COMMISSIONS. With the exception of month-to-month tenancies, commissions for the lease or other rental of Port property or facilities shall be based on three per cent (3%) of the Base Rent payable to the Port for the first, second and third years

of the lease or agreement, plus two per cent (2%) of such rental for the fourth and fifth years, plus one per cent (1%) of such rental for the next five years, with a minimum commission of \$250.00. No commissions shall be paid for the rental for the balance of the term of any such lease or agreement beyond ten (10) years. Commissions on leases or other rental agreements which provide for a minimum rental payment and a rental payment based on a percentage of receipts or sales shall be computed on the minimum rent only.

In the case of a month-to-month tenancy a commission of fifty percent (50%) of the first month's base rental shall be paid, but only if the tenant rents the property for a minimum of three (3) months.

4. MANNER OF PAYMENT. With the exception of month-to-month tenancies, commissions on leases shall be payable from one half (1/2) the first rents received by the Port under the lease and as such rents are received and not from any other funds of the Port. Payments to a broker or brokers shall be made monthly from rents received by the Port until the amount due is paid. In the case of month-to-month tenancies, payment shall be made from the third month's rent as it is received by the Port. If, prior to full payment of the commission, the tenant fails to pay rents due under the lease, the Port shall have no obligation to pay that portion of the commission which otherwise would have been payable from the unpaid rents until such time, if ever, as such rents are paid by the tenant.

5. LIMITATIONS ON PAYMENT OF COMMISSIONS.

(a) No commission shall be payable for leases awarded pursuant to a Port Commission request for bids or proposals.

(b) No commission shall be payable in any case where a former or current lessee of Port property leases additional Port property, whether or not the lessee used a broker to negotiate the original lease agreement.

(c) No commissions shall be payable for renewals or extensions of leases or other rental agreements.

(d) No commission shall be payable in any case where the broker has a direct or indirect proprietary interest in the tenant, as determined by Port.

(e) If a lease is granted by the Port to a lessee represented by a broker, and the lease grants to the lessee:

- (1) An option to expand the premises, the commission shall be calculated only on the rentals for which the tenant has an absolute obligation and shall not include rentals which may become due if the tenant exercises its option; or
- (2) An option to extend its term, the commission shall be calculated only on the term prior to the time when such term may be extended; or
- (3) A right to cancel or terminate the lease in the lessee's discretion at sometime during its term, the commission shall be calculated

only on the term prior to the time when the lease may be canceled or terminated.

(f) If a party has previously contacted the Port or its staff in regard to the lease of the property in question, the right is reserved and retained by the Port, in the Port's sole discretion, to decline to pay a commission to a broker allegedly representing such party, and the Port shall give notice that no such commission shall be paid to such broker by rejection of the broker/client registration form.

(g) In no event shall the Port be obligated to pay all or part of any commission from any of Port's funds other than the special revenue fund created specifically for the purpose of payment of brokerage commissions.

6. PORT COMMISSION'S RIGHT TO AMEND. The Port Commission reserves and retains the right to withdraw or amend this policy in the whole or as it applies to an individual case by adoption of a subsequent resolution.

BE IT FURTHER RESOLVED, that this Commission hereby authorizes the City Attorney to draft and submit to the Board of Supervisors for adoption an ordinance creating a special fund which will provide the Port continuing appropriation authority to pay brokerage commissions in accordance with this Resolution.

I HEREBY CERTIFY that the foregoing resolution was approved by the San Francisco Port Commission at its meeting of December 8, 1993.


Secretary
Port Commission



MEMORANDUM

October 6, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational presentation regarding the Port's study of on-street parking patterns.

DIRECTOR'S RECOMMENDATION: Informational Only – No Action Required

BACKGROUND

The Port has 914 parking meters in its jurisdiction that charge \$2 per hour Monday through Saturday 7:00 a.m. to 7:00 p.m. These parking meters only accept quarters. At 12 hours per day, x \$2/hour x 914 meters, each meter could collect up to \$24 per day for all 914 meters, or \$21,936 per day and \$6,580,800 annually (6 days/week, 50 weeks/year.) However, the Port actually receives approximately \$1.5 million annually which means 23% of parking meter revenue hours are paid.

Since many of the Port's parking meters are in high tourist areas such as Fisherman's Wharf and SBC Park, it seems likely that the Port could increase its meter hourly rates during peak use times in those areas to match the rates of the nearby parking garages. However, it would be burdensome to the user to have to carry enough quarters to pay those higher rates. There are meters that accept credit cards and custom debit cards similar to FastTrak that would allow the Port to increase its parking meter rates without causing undue burden on its users. However, before making a decision to purchase these meters, Port staff want to: (1) study the actual demand for parking meter spaces, (2) analyze the cost to purchase and install meters that accept credit cards, and (3) conduct a survey of other jurisdictions that have parking meters that accept credit cards to learn from their experiences.

This Print Covers Calendar Item No. 5A

STUDY OF ON-STREET PARKING PATTERNS

The Port is in the process of contracting with StreetLine to conduct a 6-month pilot project to determine the actual demand for the Port's metered parking spaces over a six-month period in congested areas of the Port such as Fisherman's Wharf and SBC Park. This study will help the Port determine optimal pricing of its meters and whether the Port can finance replacing its meters with those that take credit cards. In addition, it will help identify the number of potential parking meter violations if the actual use exceeds 23% that the Port can use to identify areas where the Department of Parking and Traffic could concentrate their enforcement efforts. The pilot area will be approximately one curb mile, or 250 parking spaces on Port streets, at a specific site to be determined in consultation with the Port.

The project will include deployment of surface-mounted sensor units at intervals of approximately 20 feet at curbside on the street and installation of network gateways above street level at a rate of approximately one per block. These sensors measure occupancy and turnover constantly on every parking space. Phase 1 of the program will include deploying and testing the network, and providing preliminary reports on data collection. Thereafter, it will involve collecting and processing the data continuously until the conclusion of the project. Port staff will analyze the data collected to determine the feasibility of changing its parking meter pricing and method of payment for use of on-street Port parking spaces.

EVALUATION OF ALTERNATIVE PARKING METERS

Port staff will also be evaluating its options for alternative parking meters that will include a survey of those jurisdictions that have parking meters that accept credit cards to determine whether they realized increased revenues and the cost to maintain and operate these meters versus those that only accept change. Port staff will also be evaluating its financing options to determine whether the projected additional revenue will cover the cost of the new meters and provide a positive return to the Port.

CONCLUSION

There is a strong possibility that the Port could raise its parking meter rates in densely used areas to better match those of nearby parking garages and thereby maximize parking revenues. However, to do so, the Port should replace its meters with those that accept credit cards and/or debit cards to reduce the burden on the users to carry quarters. Port staff are embarking on a 6-month pilot project and various studies to determine the extent to which this is a worthwhile venture. Port staff will report back to the Commission the results of the 6-month Pilot study conducted by StreetLine as well as the results of its survey of other jurisdictions and its financial analyses.


Prepared by: Tina Olson, Deputy Director
Finance & Administration



MEMORANDUM

October 5, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman, Commissioner
Hon. Kimberly Brandon, Commissioner
Hon. Ann Lazarus, Commissioner

FROM: Monique Moyer
Executive Director 

SUBJECT: Informational presentation on proposal by Trans Bay Cable LLC to install an electricity transmission line

DIRECTOR'S RECOMMENDATION: INFORMATIONAL ONLY; NO ACTION REQUIRED

Trans Bay Cable LLC (TBC) proposes to install a 400 MW high voltage direct current (HVDC) transmission line beneath the bay, between the cities of Pittsburg and San Francisco. TBC is a wholly-owned subsidiary of Babcock & Brown Power Operating Partners, a San Francisco-based company, in cooperation with Pittsburg Power Company, a municipal utility. The primary goal of the proposed project is to transmit electrical power from the east bay, which has excess electricity-generation capacity and transmission grid congestion, to power distribution facilities in San Francisco. The project is designed to provide additional transmission capacity, and contribute to meeting San Francisco's projected electricity demand in 2008 and beyond. The project would potentially reduce the need for electricity generation within San Francisco, improve electrical system reliability, and may offer savings to rate-payers.

The project consists of the following major components:

- Approximately 55 miles of 10-inch diameter cable buried in bay sediment between PG&E's Pittsburg Substation to its San Francisco Potrero Substation.
- Construction of converter stations in Pittsburg and San Francisco. The location of an approximately 6-acre converter station in San Francisco will be selected in consultation with the City, community representatives, regulatory agencies and other entities based on technical, environmental and other criteria.
- Connections between the converter stations and the existing local electrical substations, such as the PG&E Potrero substation.

This Print Covers Calendar Item No. 6A

The cable would run beneath approximately 12.5 miles of submerged lands under Port jurisdiction. On the San Francisco end, the connections to the existing PG&E Potrero Substation and the proposed converter station would be underground beneath the Potrero Power plant and on adjacent privately owned property between 23rd and 24th Streets, east of Michigan. The HVDC cables will enter the bay floor approximately 800 feet beyond the shoreline. The cable would be installed three to six feet deep in bay sediment throughout most of the alignment, but as deep as seventeen feet in some portions of the alignment where maintenance of shipping channels requires placement of the cable at greater depth.

TBC is currently developing project plans and gathering information required for various entitlements and project approvals, including development agreements with the City of Pittsburg, regulatory approvals from the Federal Energy Regulatory Commission and California Independent System Operator. TBC will require a Permit to Enter from the Port prior to conducting geotechnical or other investigation of submerged lands within Port jurisdiction. TBC anticipates completion of project approvals and permitting, including an Environmental Impact Report, in 2006. TBC will need a license with the Port for installation and maintenance of the cable on Port property. The project would be constructed in two years, and could begin operation in 2009.

Today's presentation is informational only; no action is being or can be requested of the Commission. Project Sponsors Sam Wehn and David Parquet, from Babcock and Brown, will present their proposal.

Prepared by: Carol Bach
Assistant Deputy Director
Planning & Development Division

SAN FRANCISCO PORT COMMISSION

Wilfred Hsu, President
Michael Hardeman, Vice President
Sue Bierman, Commissioner
Kimberly Brandon, Commissioner
Ann Lazarus, Commissioner

Monique Moyer, Executive Director
Phone: 415-274-0400; Fax: 415-274-0412

Amy Quesada, Commission Secretary
Phone: 415-274-0406; Fax: 415-274-0412

AGENDA

REGULAR MEETING

3:00 P.M. TUESDAY, OCTOBER 25, 2005
PORT COMMISSION HEARING ROOM, SECOND FLOOR
FERRY BUILDING, SAN FRANCISCO, CA 94111

The Port Commission Agenda as well as Staff Reports/Explanatory Documents available to the public and provided to the Commission are posted on the Port's Website at www.sfport.com. The agenda packet is also available at the Pier 1 Reception Desk.

1. CALL TO ORDER / ROLL CALL

2. APPROVAL OF MINUTES - October 11, 2005 Meeting

DOCUMENTS DEPT.

3. EXECUTIVE

OCT 21 2005

A. Executive Director's Report

SAN FRANCISCO
PUBLIC LIBRARY

- Annual AAPA Conference in Tampa, Florida
- Board of Supervisors' Action: Piers 27-31 Mixed-Use Recreation Project

4. ENGINEERING

10-21-05 P03:01 RCV

A. Informational Status Report regarding the Illinois Street Bridge Project.

5. PLANNING & DEVELOPMENT

A. Informational Presentation of the Rincon Park Restaurants Project Design (project site located on The Embarcadero between Howard and Folsom Streets).

6. NEW BUSINESS / AGENDA SETTING

- ◆ New Business
- ◆ Agenda Setting (Targeted Commission meeting, subject to change)
 - Request adoption of Hyde Street Harbor/Fisherman's Wharf Harbor Berthing Rate Increases for Fiscal Year 2005-2006 (November 10, 2005)
 - Request approval of Pier 64 Cost Reimbursement Agreement (November 10, 2005)
 - Request Extension/Termination of Exclusive Right to Negotiate Agreement with Stanford Hospitality, Inc. (November 10, 2005)
 - Informational presentation on Transitional Maritime Study for Piers 15/17 (November 10, 2005)
 - Request approval to endorse an amendment to the Revised Development Memorandum with SF Piers 27-31, LLC for the Piers 27-31 Mixed-Use Recreation Project that Eliminates Recovery by SF Piers 27-31, LLC of the Costs to Construct the Northeast Wharf Plaza (Site Location: The Embarcadero, between Bay and Battery Streets) (December 13, 2005)
 - Request adoption of findings of the Transitional Maritime Study for Piers 15-17 (December 13, 2005)
 - Request approval of Exclusive Right to Negotiate Agreement with the Exploratorium (December 13, 2005)
 - Request authorization to advertise the Marine Structural Project (December 13, 2005)
 - Request authorization to award the A/E As-Needed Services Contract (December 13, 2005)
 - Request authorization to award the Environmental As-Needed Services Contract (December 13, 2005)
 - Request authorization to award the Maintenance Dredging Project (December 13, 2005)
 - Request approval of Pier 38 Settlement Agreement. (December 13, 2005)
 - Request approval of lease with Java House (December 13, 2005)
 - Request approval of lease amendment of Pacific Marine Yachts Charters (PMDY) (December 13, 2005)
 - Request approval of lease amendment with Inspection Services at Pier 26 (December 13, 2005)
 - Authorization to advertise the Illinois Street Bridge South Approach (January 10, 2006)
 - Authorization to Award the Construction Support As-Needed Services Contract (January 10, 2006)
 - Informational presentation regarding Piers 90-94 Backlands (January 24, 2006)
 - Request authorization to execute month-to-month lease with the Chinese Chamber of Commerce doing business as Southwest Airlines Chinese New Year Festival and Parade located at Piers 27 and 29 (Date to be determined)
 - Request approval of amendment to Muni Bus Shelter Contract (Date to be determined)

- Review of proposed design for Abraham Lincoln Brigade monument (Date to be determined)
- Request approval of MOU with San Francisco Public Utilities Commission for Solar Project for Pier 96 (Date to be determined)
- Request approval of MOU with San Francisco Public Utilities Commission for the Western Pacific Property (Date to be determined)

7. PUBLIC COMMENT

Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. A member of the public has up to three minutes to make pertinent public comments before action is taken on any agenda item and during the new business/public comment period. It is strongly recommended that public comments be submitted in writing so they can be distributed to the Commissioners for their review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

8. EXECUTIVE SESSION

A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTERS. (Discussion and/or Action Items)

- Discuss existing litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):
 - As Plaintiff: Discussion and clarification of approved settlement of potential litigation against Miller Watts Constructors, Inc. ("Contractor," as successor to Miller Thompson, Inc.) relating to work performed on the Downtown Ferry Terminal Public Pier breakwater (also known as Pier 14 Breakwater) under Port Contract No. 2613.
 - Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

- Property: Pier 30
Person Negotiating: Port: Mirian Saez, Deputy Director, Real Estate
*Red's Java House: Steve & Maria Reilley

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding
real estate negotiations for Port property located at Pier 30.

b. Property: Piers 27 and 29

Person Negotiating: Port: Mirian Saez, Deputy Director, Real Estate

*The Float Barn Coordinator for San Francisco Parades aka Chinese Chamber
of Commerce dba Southwest Airlines Chinese New Year Festival and Parade:
Dave Thomas

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding
real estate negotiations for Port property located at Piers 27 and 29.

c. Property: Seawall Lot 323, 324, 322-1

Person Negotiating: Port: Byron Rhett, Deputy Director, Planning &
Development

*Stanford Hospitality: Lawrence Lui

Under Negotiation: _____ Price _____ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding
real estate negotiations for Port property located at SWL 323, 324, 322-1.

10. RECONVENE IN OPEN SESSION

- A. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.
- B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

11. COMMUNICATIONS

Communications to the Port Commission received from October 7 to October 20, 2005:

- From Marina Secchitano & Captain Raymond Shipway, regarding Maritime Union Jobs at Rick with Change of Alcatraz Ferry Service
- From Cirque Du Soleil, invitation to "Corteo," a grand procession, a festive parade imagined by a clown at the Grand Chapiteau in Parking Lot A, Terry Francois Blvd. on November 11, 2005 at 8 p.m.
- From Mary A. Inman, Michael Flandi, Kevin & Krista Ward, Grace Ryan, Kelly Andreotti, Laurel Hooper, Scott Madden, Ruth Brodie, Mary Donovan, Bonnie Baron, Charles Wilson, Nicole Maron, Carol Glanville, John Culloty, Martin Rapalski, Nafiss Griffiss, Priscilla Coleman, Barbara Nersesian (verbal), Maureen Jackson (verbal) regarding the Piers 27-31 Project

12. ADJOURNMENT

OCTOBER/NOVEMBER/DECEMBER 2005
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
Tuesday, Oct. 25	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Thursday, Nov. 10	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building
Tuesday, Dec. 13	3:00 p.m.	Port Commission	Port Commission Room @ Ferry Building

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 3:00 p.m., unless otherwise noticed. *The Commission Agenda and staff reports are posted on the Port's Website @ www.sfport.com.* Contact Amy Quesada at 274-0406.

The Cruise Terminal Environmental Advisory Committee generally meets the third week of each month. Date and time to be determined. Contact Michael Nerney at 274-0416.

The Environmental Quality Advisory Committee (EQAC) meets regularly on the fourth Thursday of the month at 9:00 a.m. at Scoma's Restaurant, Pier 47 @ Fisherman's Wharf. Contact Jay Ach @ 274-0562.

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets on a bi-monthly basis, on the third Thursday of the month, from 11:30 a.m. to 1:30 p.m. @ Pier 1. Contact Jill Rodby @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:30 to 7:30 p.m. at the Mission Bay Visitor Center (255 Channel Street). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Kirk Bennett @ 274-0545.

The Central Waterfront Advisory Group meets monthly on an as-needed basis generally on the 3rd Wednesday of the month from 5 to 7 p.m. in the Bayside Conference Room at Pier 1. Contact Mark Paez @ 705-8674 or via email @ Mark_Paez@sfport.com.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Contact Tom Evans, Redevelopment Agency, at 749-2539 or tom.evans@sfgov.org for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every last Wednesday of the month from 6:15 to 8:15 p.m. Location to be determined. Contact David Beaupre @ 274-0539 or david_beaupre@sfport.com.

The Waterfront Design Advisory Committee meets jointly with BCDC's Design Review Board on the first Monday of the month at BCDC, 50 California Street, Rm. 2600, at 6:30 p.m. or the Committee meets as needed on the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conf. Rm. @ Pier 1. Contact Dan Hodapp @ 274-0625.

The Port Permit Appeals Committee meets regularly on the first Thursday of June and December of the year. For further information contact Ed Byrne at 274-0570 or Dan Hodapp at 274-0625.

ACCESSIBLE MEETING INFORMATION

Ferry Building: The Port Commission Hearing Room is located on the second floor of the Ferry Building. The main public entrance is from the west (Embarcadero) side and is served by a bank of elevators adjacent to the historic staircase. Accessible public restrooms are on the first floor at the northeast end of the building as well as on the second floor across the lobby from the Port Commission Hearing Room. The main path of travel to the Port Commission Hearing Room is equipped with remote infrared signage (Talking Signs). The Port Commission Hearing Room is wheelchair accessible. Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART and MUNI Metro station is Embarcadero located at Market & Spear Streets. Accessible MUNI lines serving the Ferry Building area are the F-Line, 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142. The nearest accessible parking is provided in the following off-street pay lots:

- A) 3 spaces in the surface lot on the west side of the Embarcadero at Washington St.
- B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets.
- C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St., Folsom St. & Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Bayside conference rooms. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Bayside Conference rooms.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact John Scott, Port's ADA Coordinator, at 274-0571. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact Frank Darby by mail: Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854 or by email at sotf@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, at <http://www.sfgov.org/sunshine/>

Lobbyist Registration and Reporting Requirements. Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Conduct Code Sections §2.100 – 2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness, Suite 3900, San Francisco, CA 94102, phone (415) 581-2300 or fax (415) 581-2317; web site: www.sfgov.org/ethics.



MEMORANDUM

October 20, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Quarterly Project Update for the Illinois Street Intermodal Bridge Project.

DIRECTOR'S RECOMMENDATION: INFORMATIONAL PRESENTATION ONLY – NO ACTION REQUIRED.

HIGH-LEVEL PROJECT STATUS SUMMARY

Project Name: Illinois Street Intermodal Bridge

Priority: High

Project Schedule: September 2006

Project Budget: \$25.5 Million

Project Status:

- Construction proceeding but design delays continue
- Possible schedule impacts due to uncertainty when federal grant funds will be received

PROJECT STATUS

Due to the source and timing of funding for this project, construction will be completed with two separate contracts. The design and construction of the bridge and north approach will be completed under Contract No. 2680. A separate contract will be bid for construction of the south approach. The status of each contract is described below.

Contract: 2680

Scope: Complete design of the bridge and approaches, and construction of the bridge, freight track to Pier 80, and the north approach.

Design Builder: Shimmick Construction Company Inc.

Design: Partially completed

Construction: In progress for the bridge

Design Progress

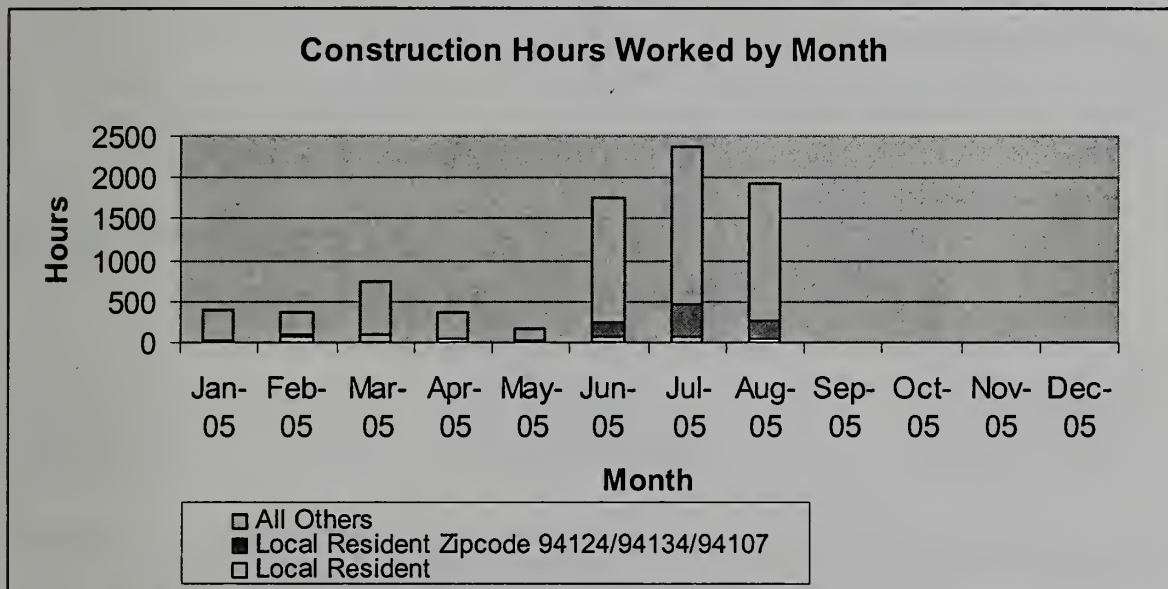
- Structural, mechanical and hydraulic design for bridge approved for construction
- Electrical and controls for bridge pending approval
- Design for approaches delayed at the point of 90% completion

Construction Progress

- Pile-supported street erected
- Abutments 1 and 11 completed
- Bents 2, 3, 4 and 10 poured
- Two structural steel spans erected

Local Hires

Out of a total of 44 employees, a total of 7 local residents or 16 percent of the total employees have worked on the job to date. Of the 7 local residents, 5 are from the 94124/94134/94170 zip codes. The following is a summary of their hours worked by month:



Project Issues

- **SF Public Utilities Commission (PUC) Forcemain:** A secondary effluent forcemain runs along the northern bank of Islais Creek. The approach to the bridge from the north was constructed as a pile-supported street to straddle the force main so as not to add any additional load to it. The Design Builder has installed monitoring points along the length of the force main along the creek bank and is monitoring them for movement during construction. During the installation of the pile-supported street, the work was coordinated with SFPUC to allow for SFPUC to inspect and make repairs along this section. To date, no movement of the forcemain has been recorded. However it should be noted that this section of the force main is not permanently inaccessible from the outside since it lies beneath the pile-supported street. Access is limited to the inside of the pipe from an entry point to the west. The installation of an

additional empty pipe parallel to the existing force main to allow for future repairs by rerouting the line was discussed with SFPUC, but was not installed since the cost of construction would have been borne by the Port. SFPUC did indicate that they can shut this line down to make future repairs to it with the current design.

- **SF Municipal Railway (Muni):** Muni is constructing the metro east facility north of the bridge on Illinois Street between Cesar Chavez and 25th Streets. Muni will install new light rail/freight rail crossings at both of these intersections of Illinois Street (Illinois/Cesar Chavez and Illinois/25th) so that Port rail cars can continue north on Illinois after crossing the bridge to as far north as Pier 70. If Muni were to decide not to install these crossings, they would need prior Port authorization; no Port authorization has been given to date. Port funds have been expended to allow this movement that cannot be recouped if Muni does not install these crossings. Further, failure to install these crossings will result in rail service being cut off to north of Pier 80.
- **California Public Utilities Commission (CPUC) Permit – *pending*:** The application for reconstructing the at-grade freight rail crossing at Illinois/Marin Streets and the construction of a new at-grade crossing at Illinois/Cargo/Amador Streets has been filed. No protests have been filed during the public comment period. Staff anticipates receiving the permit in November 2005.
- **Pedestrian Handrail (COR#10):** To obtain Bay Conservation and Development Commission (BCDC) approval, the project committed to installing a decorative handrail that costs significantly more than what the Design Builder bid (\$46,200 versus \$747,000). This handrail is to be funded with grant funds received through the Regional Bicycle and Pedestrian Program (RBPP). Since these funds are federal funds, they cannot be awarded under this contract but will be installed under the next construction contract. This has been raised as a potential cost and warranty issue by the Design Builder.

Cost and Schedule Summary

Table 1
Cost and Schedule Summary for Contract 2680

	As Revised	Revised with CO#5
Contract Sum	\$14,064,058.90	\$16,964,058.90
Contract Time	January 24, 2006	July 31, 2006

Since award of Phase II, the following Change Orders (CO) have been executed to Contract 2680:

- CO#1 \$775,000 and 0 Calendar Days (CD) for Alternates 3, 4 and 5 (Commission Resolution 04-46)
- CO#2 \$15,152 and 8 business days = 12 CDs to evaluate increasing speed of the bridge
- CO#3 \$40,000 and 21 CDs for design changes due to the Bay Conservation and Development Commission (BCDC) permit
- CO#4 \$23,906.90 and 14 CDs to evaluate raising the bridge clearance
- CO#5 \$2,900,000 and 189 CDs for Alternate 2 and resolution of all current additional work, delay, and cost claims (Commission Resolution 05-42).

Contract: *To be determined*

Scope: Construction of the south approach

Contractor: *To be determined*; contract will have to be bid pending Caltrans approval

Design: Some additional design will be performed by DPW/BOE

Construction: Planned for completion at the same time as Contract 2680 pending receipt of federal funds

Design Progress

- The design completed under Contract 2680 will be refined for bid.
- The SF Department of Public Works/Bureau of Engineering (DPW/BOE) will prepare design plans for the relocation of the City's alternate water supply system (AWSS).
- Port staff and/or DPW/BOE may prepare designs for improvements along Amador Street.

Construction Progress

- None. This contract has not been prepared for bid yet.
- Construction is scheduled to be completed at the same time as Contract 2680 (see issues below).

Project Issues

- **Relocate Existing Freight Track in Amador Street– Impacts to Darling International and American Storage:** The CPUC permits the construction of new or reconstruction of existing at-grade freight rail/vehicle crossings. The current configuration of the freight track at Cargo Way/Amador Street would become excessively complicated and unsafe for vehicles with the addition of the new freight track installed with the bridge (3 sets of tracks would intersect). This was unacceptable to CPUC and would not be permitted. Port staff worked with CPUC and Union Pacific Railroad staff and developed a solution to improve the safety of this intersection that will result in relocating the existing track in Amador that serves Darling International. The re-routing would occur along existing track through American Storage with the construction of a new spur track to Darling. Port staff met with Darling and American Storage on the reconfiguration. Disruption to their business will result from this reconfiguration but there is sufficient lead time to accommodate any disruptions. The end result will result in a safer intersection and improve service to Darling and future tenants in the area that may be served by rail.
- **SF Fire Department AWSS:** The SF Fire Department's manifold that ties into the City's AWSS is located on the southeast sidewalk of the existing Third Street bridge. During initial planning and scoping for the Illinois Bridge, the AWSS did not require relocation if the bridge was made movable (openable to navigation). Recently, Port staff have been contacted by the Fire Department stating that it still must be relocated east of Illinois Bridge. The Fire Department claims that the fire boats would need to have immediate access to the AWSS manifold from the water and this could not occur in the event of a catastrophic failure of the Illinois Bridge that would prevent it from opening. Port staff are working with DPW/BOE staff to design this re-routing. The cost of the project has increased as a result.
- **Timing for inclusion in Transportation Improvement Program (TIP):** Portions of the Illinois Street Bridge project, including the approaches to the bridge, are no longer in the TIP. The TIP must be amended to include this project to allow it to receive the federal SAFETEA-LU surface transportation funds. For this to occur, an air quality conformance analysis must be performed by the Metropolitan Transportation Commission (MTC) which is performed on an annual basis (next analysis is April 2006) before the project can be included in the TIP. Staff are working with MTC to see if a waiver will be granted to the Port, which would allow the TIP to be amended to include the entire bridge project in March 2006. In the absence of such waiver,

the TIP will not be amended until October 2006 after which time funds can be obligated. This delay will push the completion of project by one year to 2007.

- **Receipt of federal SAFETEA-LU funding:** It is still uncertain whether the Port will receive this funding in a lump sum or in installments. If the funding is received in a lump sum (see above bullet for other related issues), there should be no impact to the project. If, however, the funding is received in installments, the next construction contract may have to be structured to match available funds. Port staff are working with MTC and Caltrans to determine next steps as these agencies receive more information on the disbursement plan.

PROJECT SCHEDULE

The schedule for completing the entire project is currently driven by Contract 2680. Staff anticipate completing the project at the end of September 2006. Should the Port not receive the federal funds as described above for the south approach due to delay in amending the TIP, the final completion date for the entire project will be pushed out to October 2007.

PROJECT BUDGET

The current estimated total project cost including all design, planning, environmental, public access, and related expenses is \$25.5 million that includes a 10% contingency on certain project expenses as shown in Table 2.

Table 2
Project Budget

Item	Amount (\$)
Planning & Conceptual Engineering	\$618,328
Environmental Studies	\$393,473
Design Engineering	\$2,196,621
Construction	\$18,765,332
Project Management, Construction Oversight & Inspections	\$1,169,156
Landscape and Park Improvements	\$385,000
<i>Total Project Costs without Contingency</i>	<u>\$23,527,910</u>
<i>Contingency</i>	\$2,055,600
<i>Total Project Costs with Contingency</i>	<u>\$25,583,510</u>

As mentioned in Commission Resolution 05-62, with the forthcoming SAFETEA-LU federal funding, the project is fully funded.

Prepared By: Kathy Nakazawa, Project Manager
For Ed Byrne, Chief Harbor Engineer



MEMORANDUM

October 19, 2005

TO: MEMBERS, PORT COMMISSION
Hon. Wilfred Hsu, President
Hon. Michael Hardeman, Vice President
Hon. Sue Bierman
Hon. Kimberly Brandon
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational Presentation of the Rincon Park Restaurants Project Design (project site located on The Embarcadero between Howard and Folsom Streets).

DIRECTOR'S RECOMMENDATION: Informational Only – No Action Required

On July 25, 2000, the Port Commission approved Schematic Drawings for the Rincon Park Restaurants Project (the "Project"), including related modifications to the Design & Access Element of the Waterfront Plan. During the approval hearing, the Port Commission requested an informational presentation of design development drawings when available, including materials and further details of the Project design.

In February 2004, the Board of Supervisors approved the Port Commission's June 2003 assignment of the Project to JMA Waterfront Properties, LLC. Pursuant to its Development Agreement with the Port, JMA proceeded to negotiate a sublease agreement with Pat Kuleto Restaurants for the operation of the restaurants. During the past year, JMA secured the equity and debt financing for the Project and is pursuing other required entitlements, including application for a permit from the San Francisco Bay Conservation and Development Commission ("BCDC").

JMA's design team is led by MBH Architects and CMG Landscape Architecture. Tasked with finalizing the Project design in close coordination with the restaurant operational concepts, the team has re-engaged the final design process with the Port and community over the past several months. Some of the most recent design development drawings are included with this memo. JMA and the design team will provide additional information at the meeting, including materials samples and project renderings.

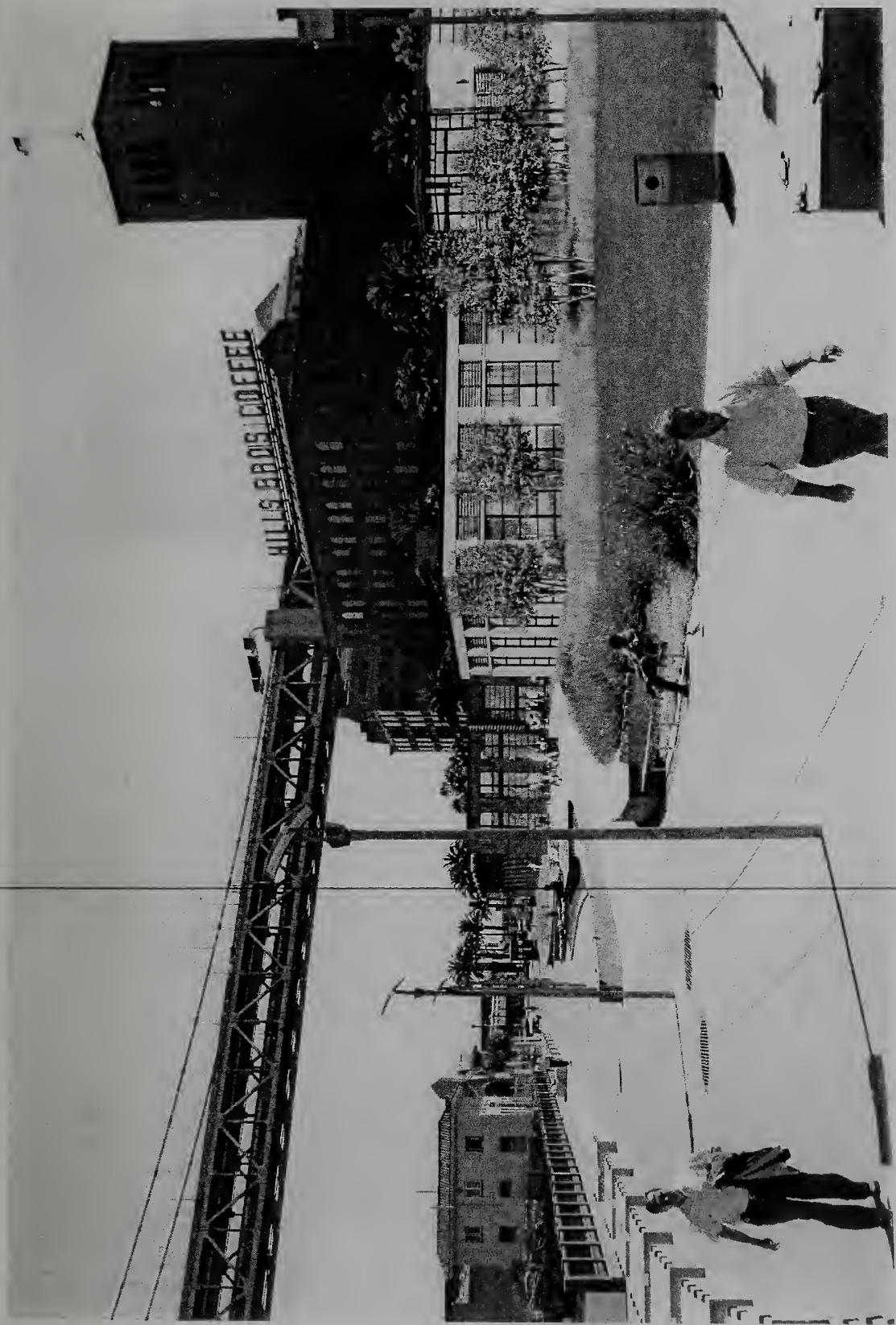
This Print Covers Calendar Item No. 5A

The Waterfront Design Advisory Committee ("WDAC") recently reviewed the design development drawings for the Project on May 23, 2005 and again at a joint meeting of the WDAC and BCDC's Design Review Board ("DRB") on September 12, 2005. Some refinements have been made to the drawings in direct response to the design review comments by WDAC and DRB, and Port staff will continue to work with JMA through construction documents to refine and address these design elements.

The Rincon Point-South Beach Citizen Advisory Committee ("CAC") supported the schematic design of the Project in 2000 and continues to support the Project. The Port and JMA provided an update on the Project at the September 2005 CAC meeting and again received support with the current designs and will continue to keep the community apprised of the Project during final design and construction.

The Project requires a permit from BCDC and a Building Site Permit from the Port prior to close of escrow and commencement of construction which JMA proposes to begin by the end of this year. Following this schedule, the Project is expected to be complete and open for business in the Spring 2007.

Prepared by: Kari Kilstrom
Planning & Development







SCALE: NTS
OCTOBER 2005

EMBARCADERO PIAZZA CONTEXT PLAN

CMG

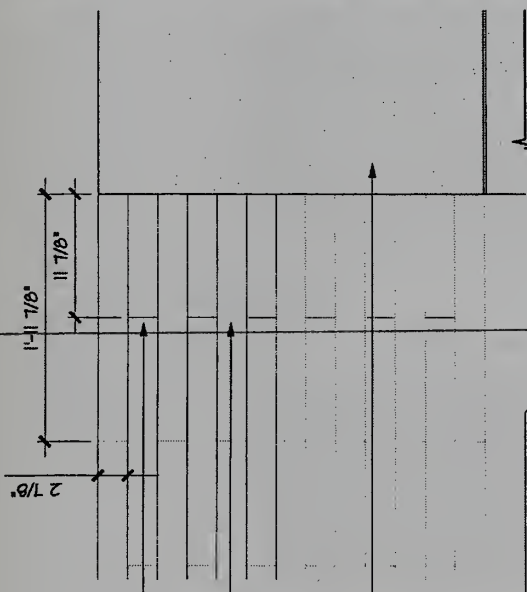
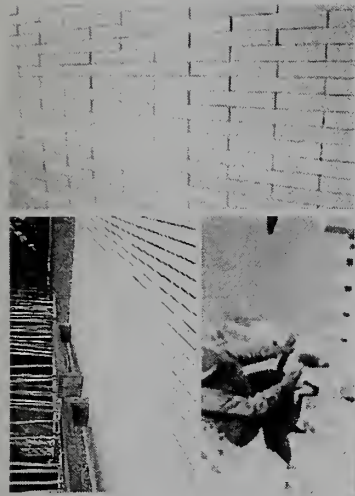


CMG

EMBARCADERO PIAZZA - RINCON RESTAURANTS - WEST ELEVATION

1" = 20'

OCTOBER 2005



PAVER SAW CUT IN HALF @ FACE OF CONC. CURB. MAKE UP DIMENSIONAL DIFFERENCE IN CENTER OF PATTERN

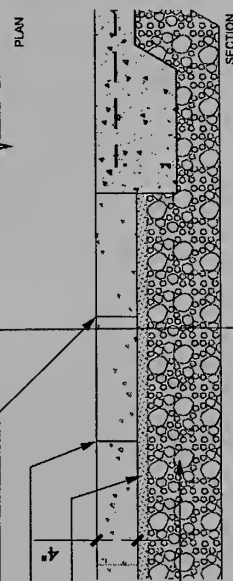
"CALIFORNIA ARCHITECTURAL NARROW MODULAR PAVER" BY STEFSTONE, INC. ON SAND SETTING BED
4 COLOR PATTERN: COLORS TBD
FINISH: LIGHT SAND BLAST

C.I.P. CONCRETE

CUT PAVER BEYOND SAND-SWEPT JOINT

1" - 2" SAND SETTING BED

AGG. BASE PER GEO-TECH SPEC.



SCALE: 1"=1'-0"

MODULAR PAVER ON SAND SETTING BED



S.S. 40 *REMOVABLE GUARD-RAIL WITH 2" O.D.

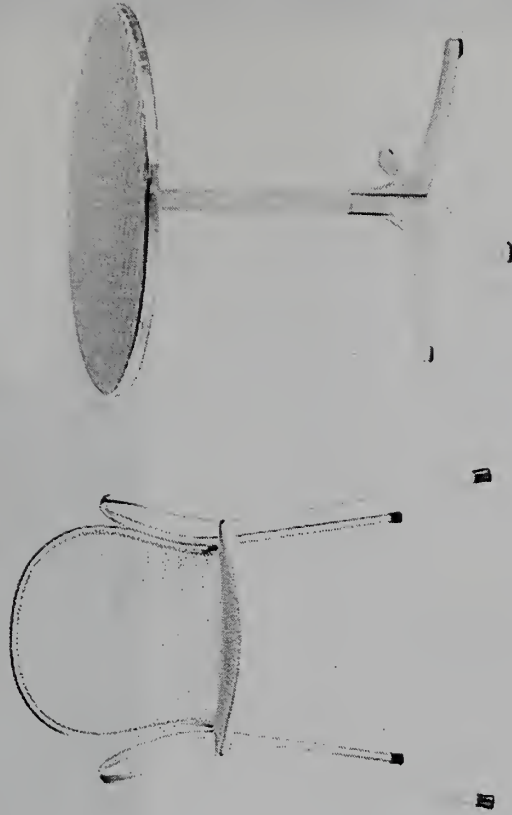
S.S. PLATE AND THREADED SLEEVE
TO BE GROUT SET INTO CUT PAVER

1" - 2" SAND SETTING BED

C.I.P. CONCRETE FOOTING

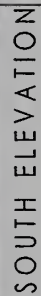
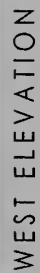
REMOVABLE GUARD RAIL FOOTING

SCALE: 1"=1'-0"



PUBLIC SEATING -

MOVABLE "RONDE ARI" CHAIR & "INOX" CAFE TABLE BOTH IN POWDER-COATED STEEL AVAILABLE BY DESIGN WITHIN REACH



A.2

SOUTH RESTAURANT - ELEVATIONS

 $3/16'' = 1'-0''$

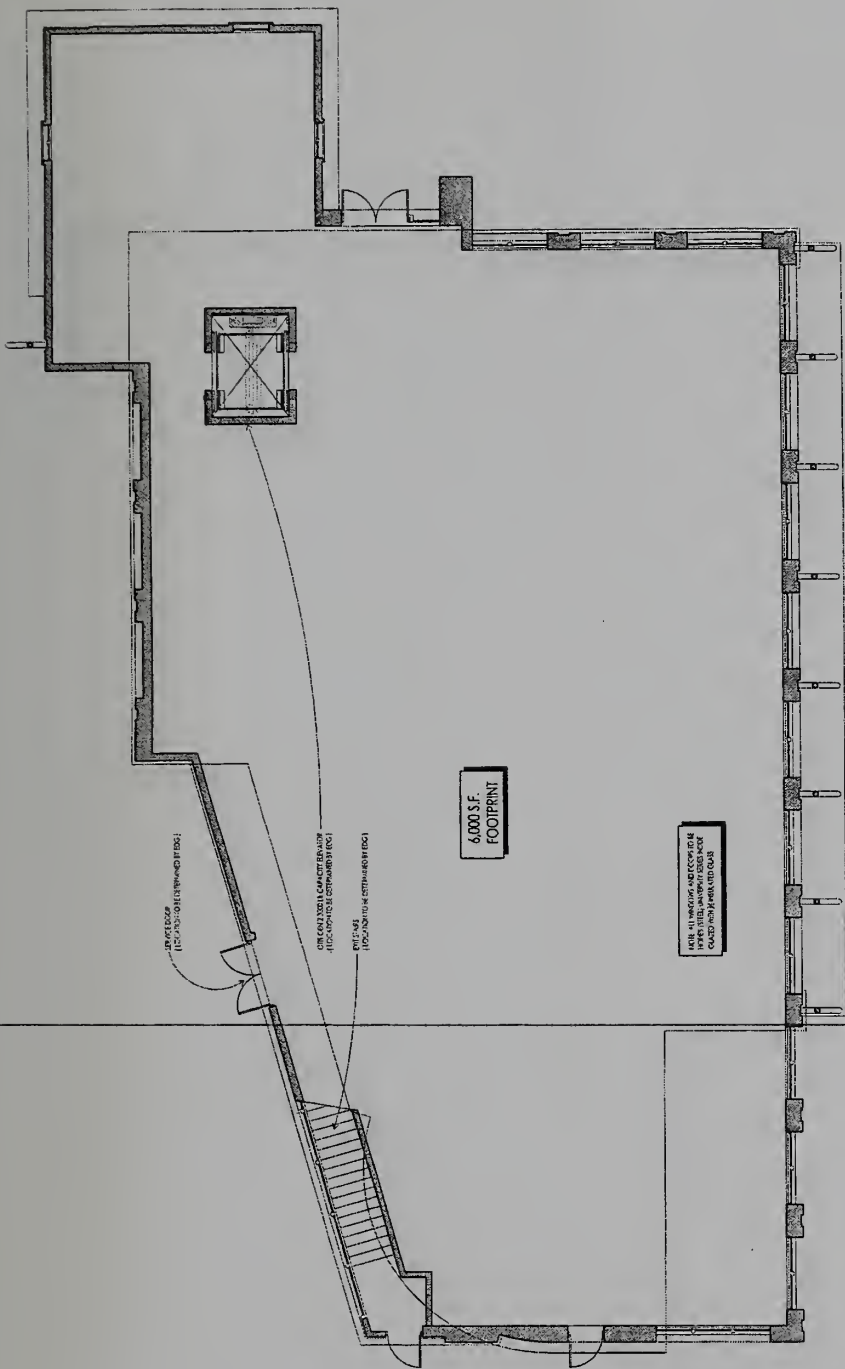
11 OCTOBER 2005
PROJECT NO: 42178

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FBI

RINCON RESTAURANTS

SOUTH RESTAURANT
SAN FRANCISCO, CALIFORNIA



A.1

1/4" = 1'-0"

11 OCTOBER 2005
PROJECT NO. 42178

© 2005 MBH
1115 ANDRÉ ASSOCIATES
SAN FRANCISCO, CA 94109
TEL: 415.398.1100
FAX: 415.398.1101

SOUTH RESTAURANT - GROUND FLOOR PLAN

RINCON RESTAURANTS

SOUTH RESTAURANT
SAN FRANCISCO, CALIFORNIA

A.2

1/4" = 1'-0"

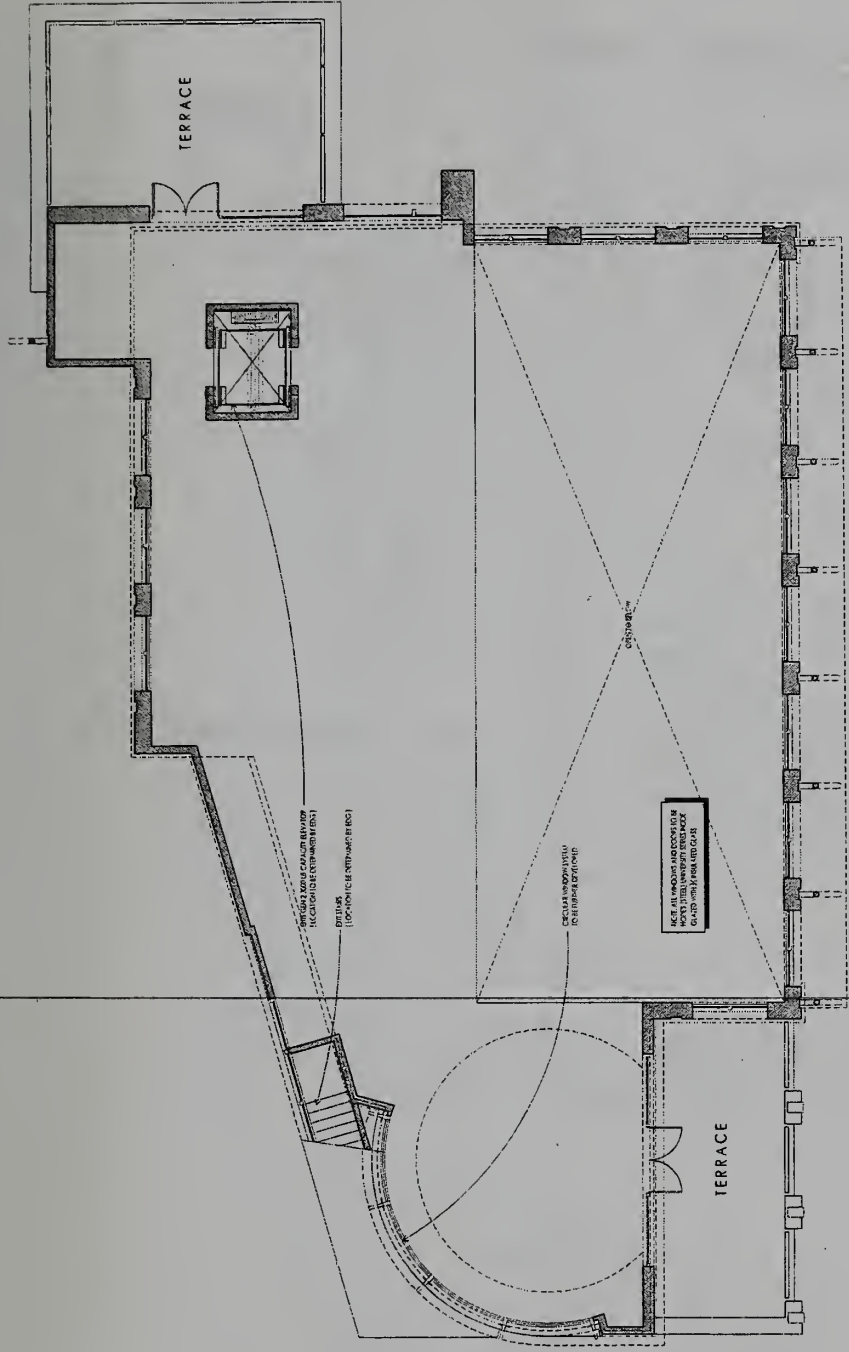
11 OCTOBER 2005
PROJECT NO. 42178

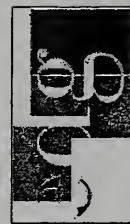
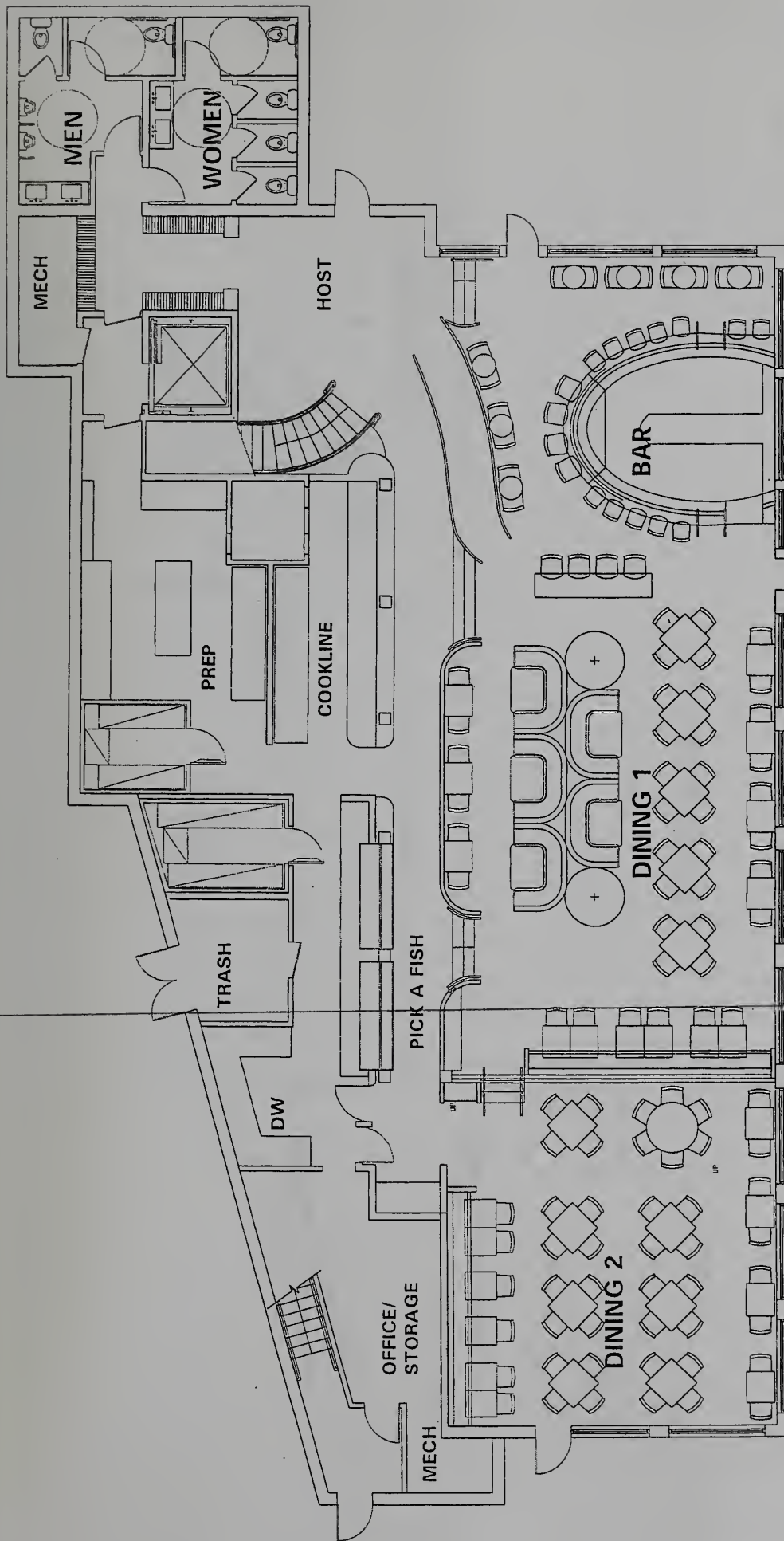
© 2005 MBH
1115 CALIFORNIA STREET
SAN FRANCISCO, CA 94109
TEL: 415.398.4443
FAX: 415.398.4447

SOUTH RESTAURANT - MEZZANINE FLOOR PLAN

RINCON RESTAURANTS

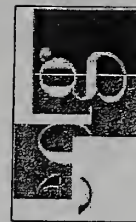
SOUTH RESTAURANT
SAN FRANCISCO, CALIFORNIA



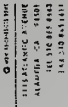


SOUTH BUILDING- GROUND FLOOR PLAN

$\frac{1}{8}'' = 1'-0''$

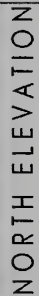
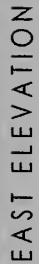


SOUTH BUILDING- 2ND FLOOR PLAN
1/8" = 1'-0"

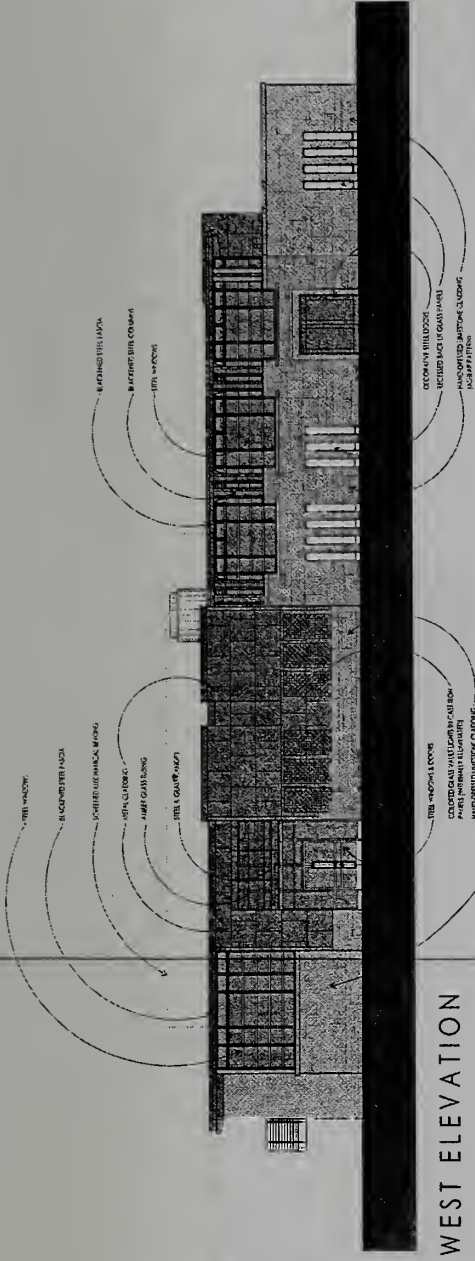


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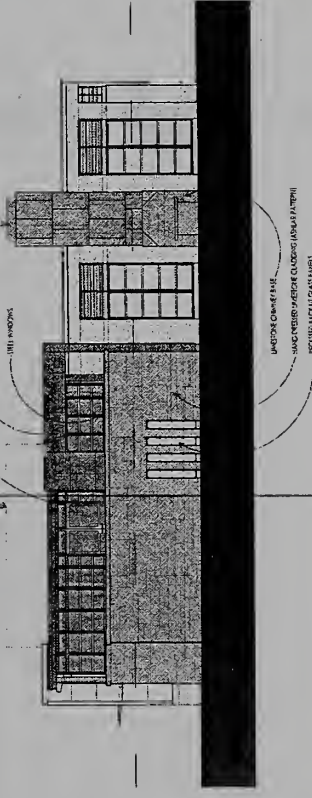
A.1

 $3/16'' = 1'-0''$ 

NORTH RESTAURANT
SAN FRANCISCO. CALIFORNIA



WEST ELEVATION



SOUTH ELEVATION

NORTH RESTAURANT ELEVATIONS

A.2

3/16" = 1'-0"

18 OCTOBER 2005
PROJECT NO. 42021

RINCON RESTAURANTS

NORTH RESTAURANT
SAN FRANCISCO, CALIFORNIA

© 2005 MBI

11133 AVENUE AVENUE
ATLANTA, GA 30301
404.525.8888
404.525.8888

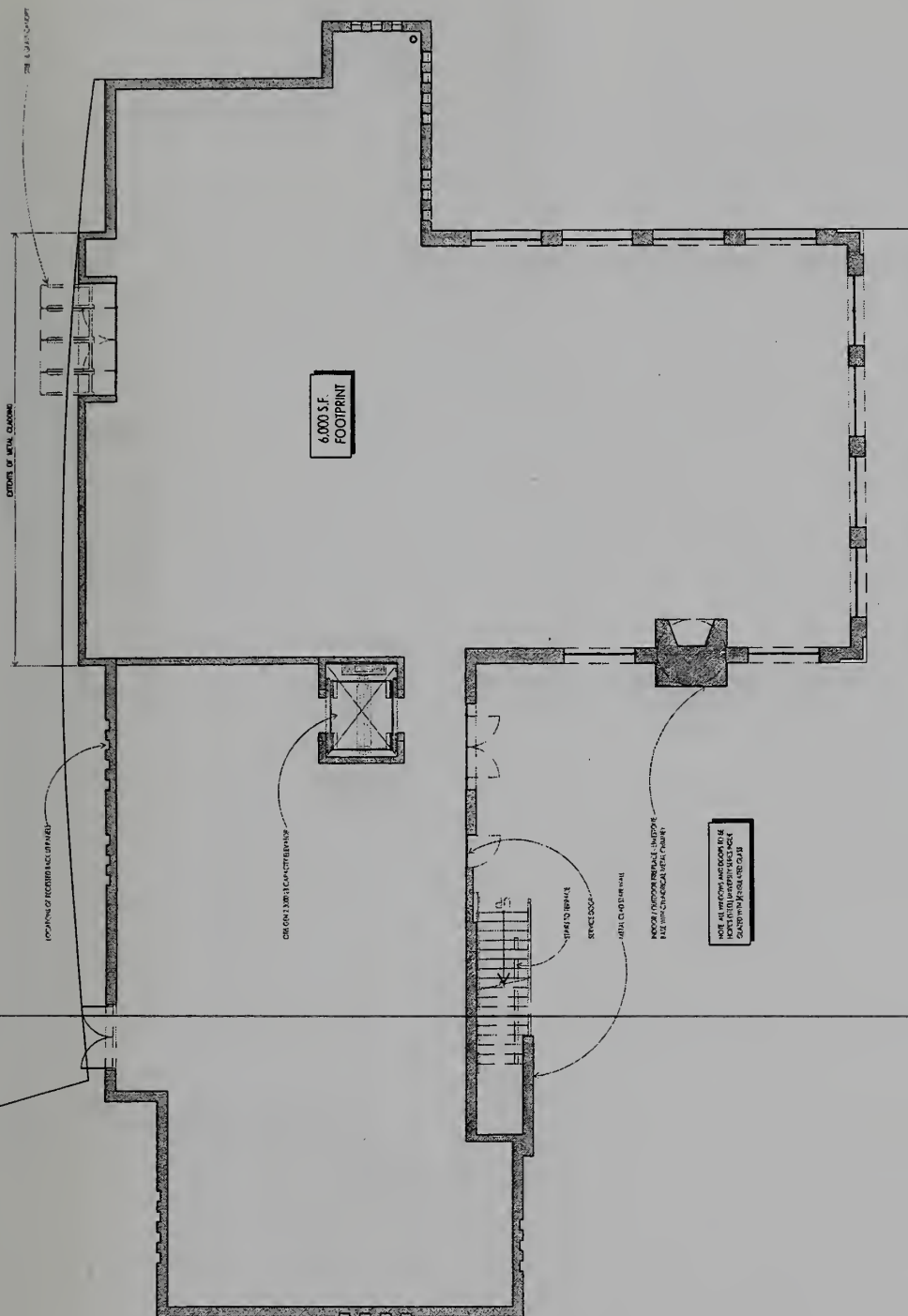
MBI

A.1

 $1/4'' = 1'-0''$

18 OCTOBER 2005
PROJECT NO. 42178

THE ATLANTIC AVENUE
ATLANTA GA 30301
TEL 410.855.8693
FAX 310.865.1811



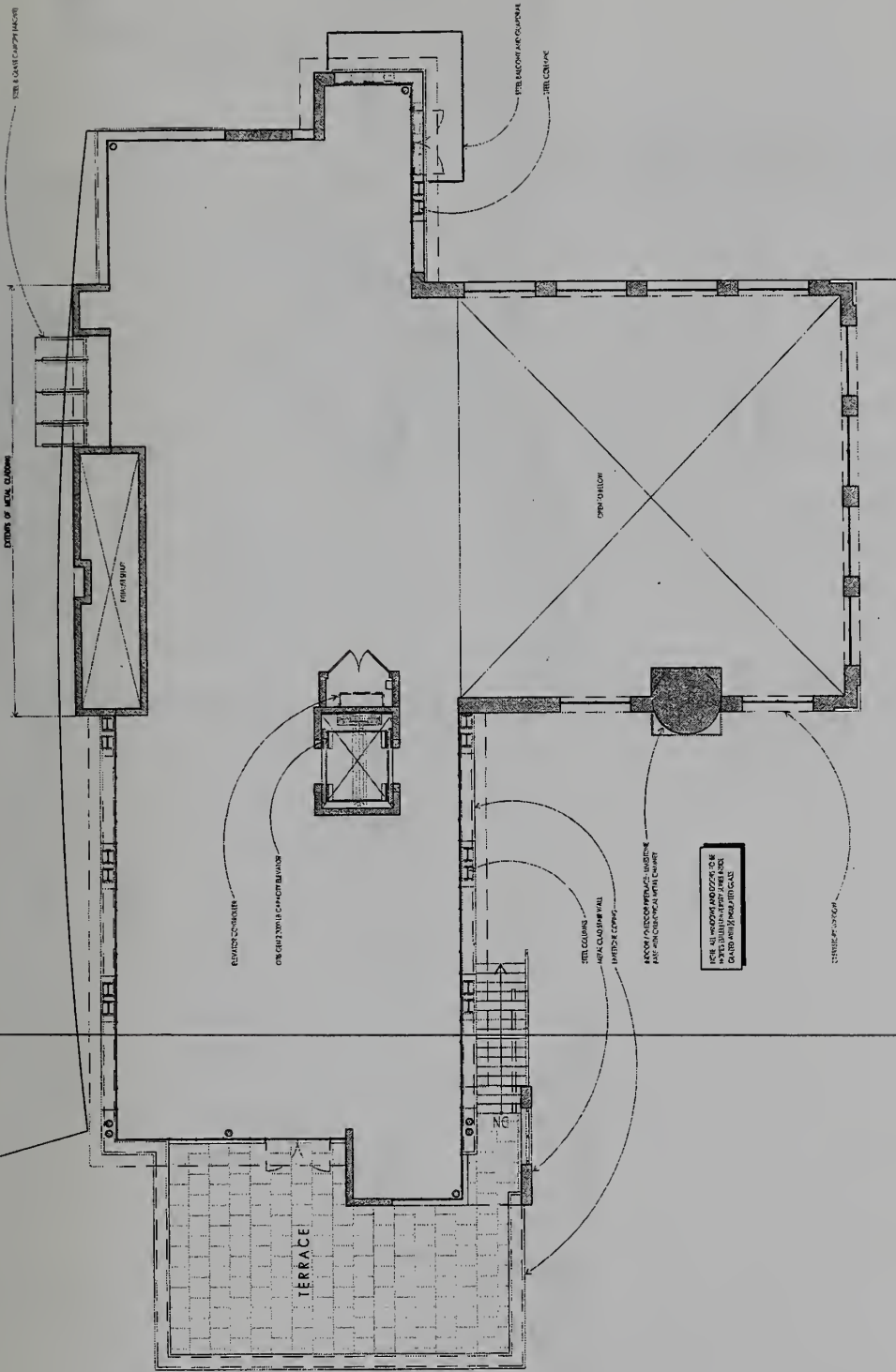
NORTH RESTAURANT - GROUND FLOOR PLAN

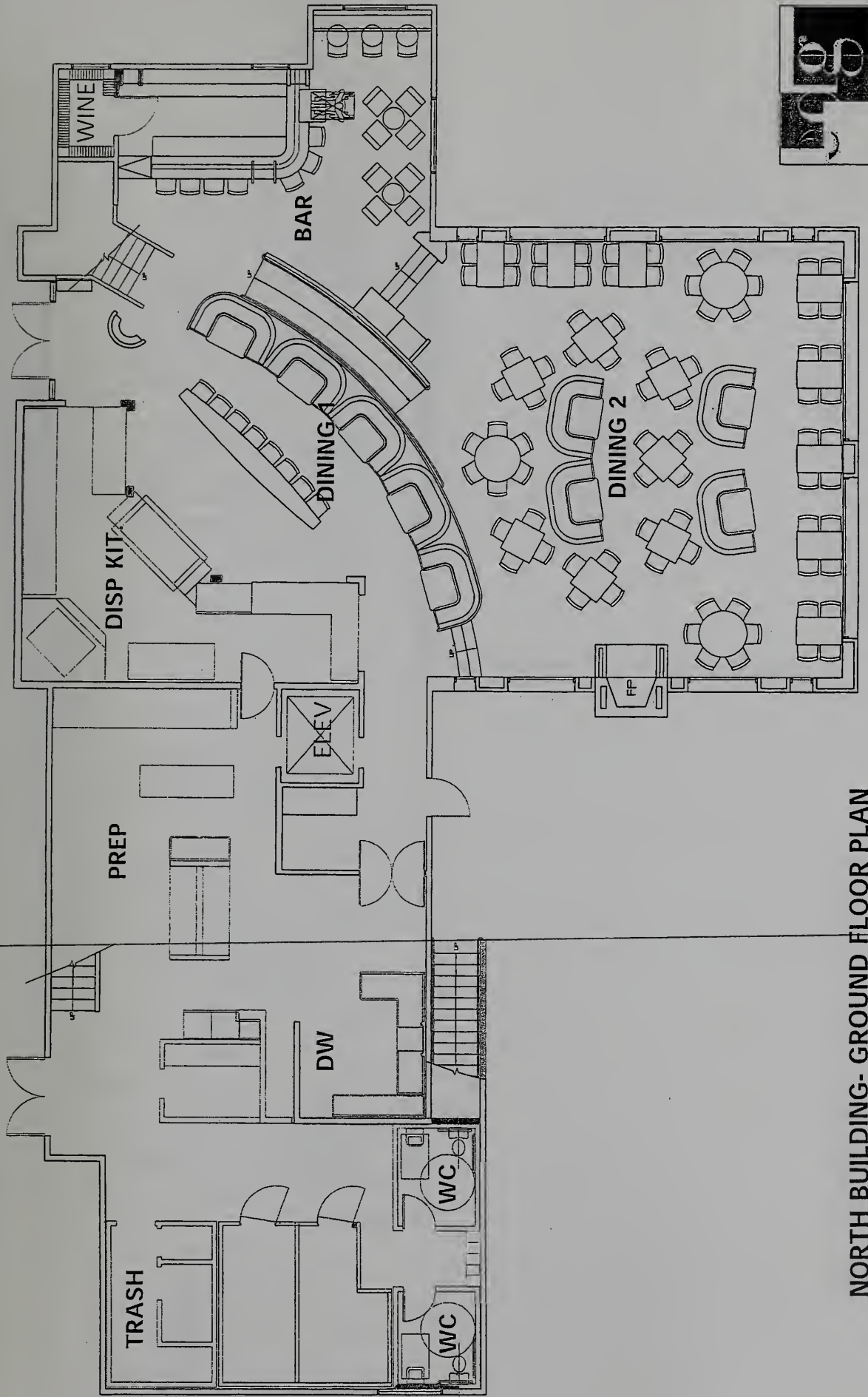


8/17/97 ON I

NORTH RESTAURANT
SAN FRANCISCO, CALIFORNIA

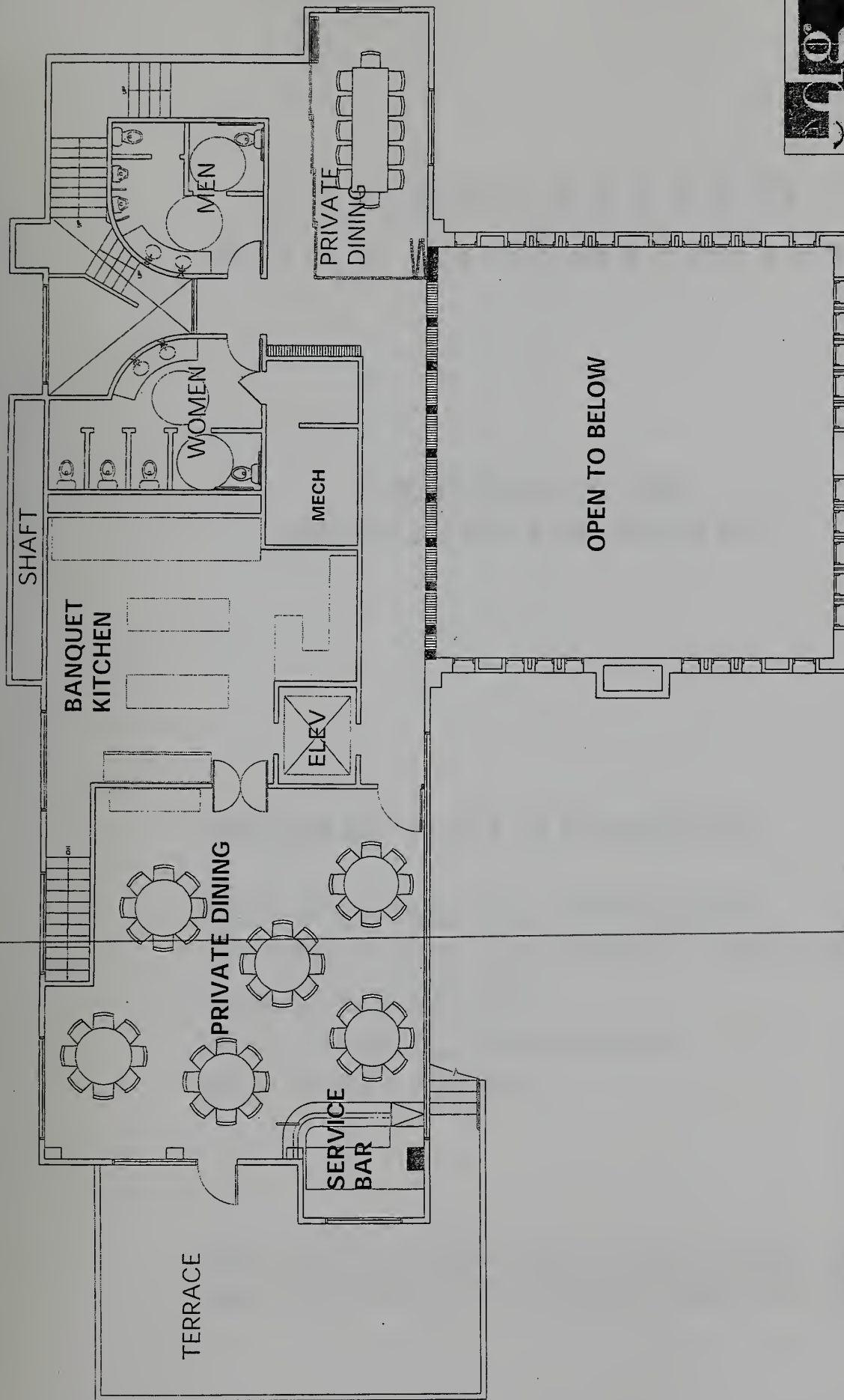
A.2

$$1/4'' = 1'-0''$$


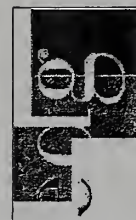


NORTH BUILDING- GROUND FLOOR PLAN
 1/8" = 1'-0"





NORTH BUILDING- 2ND FLOOR PLAN
 1/8" = 1'-0"



**SAN FRANCISCO
PORT COMMISSION**

**OCTOBER 25, 2005
MINUTES OF THE MEETING**

DOCUMENTS DEPT.

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MEMBERS, PORT COMMISSION

HON. WILFRED HSU, PRESIDENT

HON. MICHAEL HARDEMAN, VICE PRESIDENT

HON. SUE BIERMAN

HON. KIMBERLY BRANDON

HON. ANN LAZARUS

MONIQUE MOYER, EXECUTIVE DIRECTOR

AMY QUESADA, COMMISSION SECRETARY

CITY & COUNTY OF SAN FRANCISCO

PORT COMMISSION

MINUTES OF THE REGULAR MEETING OCTOBER 25, 2005

1. CALL TO ORDER / ROLL CALL

Commission Vice President Michael Hardeman called the meeting to order at 3:05 p.m. The following Commissioners were present: Michael Hardeman, Sue Bierman, Kimberly Brandon and Ann Lazarus. Commissioner Wilfred Hsu arrived at 3:20 p.m.

2. APPROVAL OF MINUTES - October 11, 2005 Meeting

The Commission Secretary noted a time change on Page 17 of the minutes, Item #10. The Commission withdrew from executive session and reconvened in open session at 6:25 p.m. instead of 5:40 p.m.

ACTION: Commissioner Brandon moved approval of the revised minutes; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor; the minutes of the October 11, 2005 meeting were adopted.

3. EXECUTIVE

A. Executive Director's Report: Acting Executive Director Tina Olson reported the following:

- Annual American Association of Port Authorities (AAPA) Conference in Tampa, Florida. Director Monique Moyer and Deputy Director Peter Dailey are attending the annual AAPA conference in Tampa, Florida. Ms. Moyer is expected to be back in the office on Thursday and Mr. Dailey will be back on Friday.
- Board of Supervisors' Action: Piers 27-31 Mixed-Use Recreation Project. The Board of Supervisors voted 9-1 that the Pier 27-31 project is not fiscally feasible or responsible, per the Ordinance. The main issue that was discussed as it relates to the fiscal feasibility of the project was the lack of agreement between the Mills Corporation and the YMCA for the \$30 million that YMCA needs to raise to fund their portion of the project. Some of the supervisors also questioned Mills' assertion that there were other commitments against the billion dollar line of credit. Staff did not have that information as it was not publicly available. During the hearing, the Mills Corporation proposed to the Port to rescind the \$2.1 million rent credit in the current agreement to build the northeast wharf plaza. Had that information been received in the agreement before the report was released, Port staff would not have had to go to the Board of Supervisors with the Fiscal Feasibility Report. On December 13, 2005, staff will be bringing to the

Commission an amendment to the development memorandum. As a condition for calendaring this item, staff requested that Mills provide the Port, by November 18, a copy of the written agreement between Mills and YMCA as well as additional information so that the Port can determine whether the agreement achieves the Port goals as expressed in the development memorandum.

- Pier 7 Incident. A police command center is located at Pier 7 for the search and recovery of the children that were thrown into the bay. The Port has also maintained a presence in the command center. Sidonie Sansom, Tom Carter, Andres Acevedo and Dan Lazzari have volunteered as the Port's liaison. The Port has also provided 26 staff members in teams of two to walk the Port facilities to connect visual observations along the water and the piers to look for the bodies of the two missing children. The Port divers with support and assistance from the Police divers have been searching the bay floors adjacent to the San Francisco Yacht Club. The Port has also provided lunches to the incident command center and to the families of the victims. The Port also offered the Bayside Conference as a place for the family to gather.
- The Draft EIR for Wharf J10 has been published on October 15, 2005. It is also posted on the Port's website. It will undergo public review. The draft EIR not only evaluates the impacts of the Port's proposed demolition of the wharf J10 but also the proposed rebuild concepts forwarded by the current tenants. In response to the Fisherman's Wharf community, the EIR includes a study of alternatives of possible other fishing industry facilities located on or near J10. There will be a public hearing to receive comments at the November 2 Landmarks Advisory Board meeting and in the November 17 Planning Commission meeting. The public comment period closes on November 29.
- Mayor's State of the City Address is on Wednesday, October 26 at 1 p.m. at San Francisco State University at the Creative Arts Building in the McKenna Center.

4. ENGINEERING

A. Informational Status Report regarding the Illinois Street Bridge Project.

Kathy Nakazawa, Project Manager, indicated that due to the source and timing of funding for this project, construction will be completed with two separate contracts. The design and construction of the bridge and north approach will be completed under Contract No. 2680 with Shimmick Construction. A separate contract will be bid for construction of the south approach.

Recently, the Commission approved the extension of contract time and budget increase of this project through Change Order #5. Since then, there has been no change in terms of time and budget. Most of the structural, mechanical and hydraulic design for the bridge have been completed and approved for construction. The electrical controls for the bridge are pending in the next couple of weeks. The design for the approaches has been delayed at the point of 90% completion. There have been

complications with having to redesign the approaches to meet the California Public Utilities Commission (CPUC) permit. Construction commenced in May of this year. A pile-supported street was erected. Abutments 1 and 11 were completed. Bents 2, 3, 4 and 10 were poured and two structural steel spans were erected. She showed the Commission drawings of the project.

The following issues are critically impacting the contract:

- (1) PUC's force main that runs underneath the pile supported structure. The approach to the bridge from the north was constructed as a pile-supported street to straddle the force main so as not to add any additional load to it. The design builder has installed monitoring points along the length of the force main along the creek bank and is monitoring them for movement during construction. During the installation of the pile-supported street, the work was coordinated with PUC to allow for PUC staff to inspect and make repairs along this section. To date, no movement of the force main has been recorded. They will continue to monitor it while they drive the piles.
- (2) San Francisco Municipal Railroad. Muni is constructing the metro east facility north of the bridge on Illinois Street between Cesar Chavez and 25th Streets. Muni will install new light rail/freight rail crossings at both of these intersections of Illinois Street so that Port rail cars can continue north on Illinois after crossing the bridge to as far north as Pier 70. If Muni were to decide not to install these crossings, they would need prior Port authorization; no Port authorization has been given to date. Port funds have been expended to allow this movement that cannot be recouped if Muni does not install these crossings. Failure to install these crossings will result in rail service being cut off to north of Pier 80.
- (3) CPUC Permit is required to construct at-grade crossings between freight rail and vehicles/pedestrians. Port staff filed for the permit application. No protests have been filed during the public comment period. This item is on the PUC's calendar for approval on November 18, 2005.
- (4) Pedestrian Handrail. To obtain BCDC approval, the project committed to installing a decorative handrail that costs significantly more than what the Design Builder bid (\$46,200 versus \$747,000). This handrail is to be funded with grant funds received through the Regional Bicycle and Pedestrian Program. Since these are federal funds, they cannot be awarded under this contract but will be installed under the next construction contract. This has been raised as a potential cost and warranty issue by the Design Builder. Staff is currently working through this issue.

On the design side, the Port spent a little bit more than what the budget shows because of the added BCDC requirement and staff had to tap into its project contingency. On the construction side, the Port spent more money than what was actually done. This has to do with purchasing materials as well as mobilization cost. However, the project is on target. Out of a total of 44 employees, a total of 7 local residents or 16% of the

total employees have worked on the job to date. Of the 7 local residents, 5 are from the 94124/94134/94170 zip codes.

Ms. Nakazawa mentioned some of the issues that are coming up in the horizon:

- (1) Relocate existing Freight Track in Amador Street – Impacts to Darling International and American Storage. In order for the Port to get the CPUC permit, the Port has to reconfigure the south approach in a manner that is safer and less complicated. The current configuration of the freight track at Cargo Way/Amador Street would become excessively complicated and unsafe for vehicles with the addition of the new freight track installed with the bridge (3 sets of tracks would intersect). In consulting with CPUC and Union Pacific, they came up with a solution that would work for everybody but it will impact some of the Port's tenants. The re-routing would occur along the existing track through American Storage with the construction of a new spurt track to Darling International. Disruption to their businesses will result from this reconfiguration but there is sufficient lead time to accommodate any disruptions. The impact on the relocation probably won't happen until a year from now.
- (2) Relocate an Alternate Water Supply System (AWSS) for the Fire Department. During the initial planning and scoping for this project, the AWSS did not require relocation if the bridge was made movable. In recent discussions with the Fire Department, they stated that in the case of a catastrophic event where the bridge becomes nonfunctional, they will need access to the alternate water system immediately. The AWSS is currently located between the two bridges – the existing Third Street bridge and the Illinois Street bridge. The AWSS has to be relocated to the east so that the Fire Department will have access to it by water boat. There is an estimated construction cost of \$500,000 for the relocation.
- (3) Timing for Inclusion in Transportation Improvement Program (TIP). The Port recently received \$3.2 million through the SAFETEA-LU program. In order to get those funds, the Port needs to be in the TIP both at the state and federal level. Unfortunately, portions of the Illinois Street Bridge project, including the approaches to the bridge, are no longer in the TIP program. The TIP must be amended to include this project to allow it to receive the federal SAFETEA-LU funds. There is an air quality conformance analysis that needs to be performed by the Metropolitan Transportation Commission (MTC) in order to get into the TIP program. Since the Port has fallen out of the TIP, staff is currently working with MTC to see if a waiver would be granted to the Port. If that were to occur, the Port should be able to get back into the TIP in March 2006 at which point, the project would be back on track. However, if the Port does not get the waiver, the TIP would not be amended until October 2006 after which time funds can be obligated. This delay will push the completion of the project by one year to 2007.

In summary, construction is proceeding but there are some design delays and possible schedule impacts because of trying to get into the TIP as an amendment as well as some uncertainties in terms of when the grant funds will be received.

Currently, staff is hopeful that the project will be on track for the September 30, 2006

completion for the entire project. If staff is unsuccessful in getting into the TIP, the south approach will be delayed an entire year and will not be completed until October 2007. She has a meeting with MTC tomorrow to plead our case to hopefully get the waiver so the project can get back into the TIP.

Commissioner Lazarus asked why this project fell out of the TIP. Ms. Nakazawa replied that when you are in the TIP, you are basically programmed to hopefully receive money from the federal government. Recently, the Port received \$750,000 from the Regional Bike and Pedestrian Program. Because the Port received that amount, they assumed that the Port isn't going to receive any other monies for this past fiscal year so the Port was dropped out of the TIP. This is basically a bureaucratic process.

Joe Boss indicated that he always gets troubled when the Port gets beaten up by other departments. He was totally befuddled by the Fire Department's change of thought. He will do what he can to talk to people. It seems like a straight forward stern letter to that department from the Commission might be in order.

5. PLANNING & DEVELOPMENT

A. Informational Presentation of the Rincon Park Restaurants Project Design (project site located on The Embarcadero between Howard and Folsom Streets).

Ms. Kari Kilstrom, Planning & Development, indicated that in July of 2000, the Port Commission approved the Schematic Design for the Rincon Park Restaurants project. At that time, the Commission asked Staff to come back with an informational update with further design details of the project, such as building materials, color, landscape and other design features, which is the purpose of this presentation. Since three of the Commission members were not here in 2000, and the project has changed developers and architects since that time, Ms. Kilstrom shared a little bit of the project history.

I. Background leading up to Schematic Design Approval

1998 - 2000

- Port issued an RFP for Restaurants in 1998, in coordination with the Redevelopment Agency (RDA) and their work with the Gap Inc.'s design team for the Park. The goal was for the two agencies to work closely together to create a comprehensive design for the overall park/restaurant site (shown in the Commission's packet as the "context plan").
- During the public design process in 1999 and 2000, the Rincon Park/South Beach CAC and other neighbors and members of the public provided comments that shaped the design of the park and the restaurants' site.

- The Port's Waterfront Design Advisory Committee (WDAC) and BCDC's Design Review Board (DRB) also reviewed the project several times.

2000

- Port Commission and Redevelopment Commission met in a joint hearing to approve the Park Schematic Design, and shortly after that, the Port Commission approved the Restaurants Schematic Design. Those approvals established a specific boundary for the Restaurants Site (and the Park surrounding it), as well as building footprints, building massing, the orientation of the floor plans toward the park and Bay, and the interface between the outdoor dining areas and the Park and promenade beyond.

At that time, the Port Commission asked Staff to come back with an informational presentation on the progress of the design.

II. Assignment to JMA Waterfront Properties

Since then, The Port Commission assigned the Lease and Development Agreement for the Restaurants Project to JMA, in 2003. The Board approved the Lease in 2004.

Over the past year or so:

- JMA has been working through various milestones and entitlements in the development process and has succeeded in negotiating a sublease agreement with Pat Kuleto Restaurants – to handle restaurant operations – and has also secured the equity and debt financing for the Project.
- Most recently, JMA has turned its attention to the task of completing the project design and preparing construction documents.
- The Design Drawings have been reviewed by Port staff, and again, by the WDAC, DRB and Redevelopment Agency staff. The design review process has been very productive and the drawings reflect a number of ideas and comments made during this process.
- Port staff is very happy with the Project design, particularly the way in which the building design fits within the Park context. Staff will continue to work with JMA through an increasingly shorter list of design details through the approval of construction documents.

Ms. Kilstrom showed the Commission a related project that directly benefits the Park and Restaurants site that was quietly constructed under the direction of Port Engineering staff. The last time the Commission looked at designs in this area, there was a 450-foot concrete wall along the edge of the promenade that was not replaced during the Mid-Embarcadero Roadway project. The wall spanned about 1/3 of the

length of the park. The wall was replaced last year with a more transparent railing design that allows passersby to see the Bay, funded by Federal Transportation Enhancement Grant, with some matching funds from the Port.

Art Chapman, JMA Ventures, project sponsor, was very pleased to be in front of the Commission today. They have finalized an executed agreement with Pat Kuleto Restaurants, arguably the number one restaurateur in Northern California, to operate the two restaurants. They will be outstanding and will hopefully be two of the finest restaurants in San Francisco. They have completed the financing package and are ready to go. They have spent a lot of time in improving the process as it is a long process in San Francisco. Working with the CAC, WDAC and DRB has resulted in a vastly improved project, one that embraces the neighborhood and the park, not only from an aesthetically standpoint but from the neighborhood resident's standpoint as well. At the beginning of the process, the residents were telling them that this wouldn't be just two restaurants where people who could afford white table cloths and expensive meals would be able to come. During that process and taking them at their word, they were able to get Pat Kuleto to agree that in the outdoor piazza they are going to have a different, less expensive menu that would be inviting to the neighborhood residents to come down on a nice day and have fish, seafood in an outdoor setting in a less expensive price. They were able to do that with Pat Kuleto and respond to what the neighbors and citizens told them both in terms of the design and what they wanted in the park and in the restaurants. It's been a long process but one that has significantly improved the final product and they are very proud of the project and they hope the Commission would be too. They hope to be in a position to receive their BCDC permits in November and come back to the Port and hope to be in construction at the end of the year.

Andreas Grecci, MBH Architects, project designer, showed the Commission drawings of the proposed restaurants. Their main goal is to create two restaurants in the park. The restaurants will be a setting inside the park. The restaurants have two open areas: (1) in the center that divides the two restaurants for access to the bay; (2) to the left of the restaurants that divides the two main parks, the sculpture park and the restaurant park. The south restaurant, which is closest to the Embarcadero, has its entrance from the piazza. The access to the north restaurant is from the Embarcadero. The two restaurants are approximately 6,000 s.f. each on the ground floor and 3,000 s.f. on the upper level. The piazza which is an open space is approximately 8,000 s.f.; half of which will be used by the restaurant. The rest is for public use and maintained by the owner. Some of the curving walls are part of the park and some are new that they have added as enhancements to the piazza. The south restaurant is mainly a brick building, made of brick, metal and glass. They try to achieve as much openness as possible toward the bay to acquire the views. The same articulation in the windows is maintained. In the south and west elevation of the restaurant, the same materials are used, yet there's less use of glass because those views are diminished due to the service areas. The same articulation and same level of detail is carried throughout the restaurant. On the north restaurant, instead of using brick, they tried to use a cohesive refined material, which is limestone. They have the same amount of windows on the east elevation to further use those views to make sure they acquire as many views into

this space from the bay and from pedestrians when they walk down the promenade. The north elevation faces the sculpture. There is a lot of glass, a little bit of limestone in the area closest to the Embarcadero. The articulation is maintained around the building, the same level of detail, same materials and the limestone is carried all around. There is an outdoor fireplace and the restaurant will have an outdoor area. He showed elevations of both the restaurants as seen from the Embarcadero. With regards to the landscape, ivies will be planted. The park will be well lit from the street. He showed a view looking south on the promenade; the north restaurant on the foreground and the south restaurant in the background. The difference in materials is highlighted - the limestone and the brick and the landscape wraps around the buildings. In a sense, the buildings are sitting in the middle of the park. He showed another view closer to the south restaurant, showing the Hills Brothers brick building in the background. The two restaurants are nestled in the piazza with the outdoor eating space in the middle of the two buildings.

Commissioner Bierman asked about the public access into the park. Mr. Grecci replied that there is an opening between the two buildings from the Embarcadero or on the left side where there is a wider opening between the two parks.

Commissioner Bierman asked if there will be benches in the park. Mr. Grecci showed the drawings of the seating area and the benches around the park.

Commissioner Brandon asked the duration of the construction period. Ms. Chapman replied that it will take approximately 15 months. They hope to be open in the late spring, summer of 2007.

Ernestine Weiss indicated that in the first preliminary drawing she saw, the color of the building was brown; she wondered what a limestone color is. Mr. Grecci replied that the limestone is buff color. Ms. Weiss indicated that she was pleased with the buff color. While she was very impressed with Pat Kuleto as the restaurateur since he has a very good reputation, she was worried about the major competition along the Embarcadero. Each pier has loads of restaurants. She hopes that a marketing survey was conducted about the economic feasibility of the restaurants to the surrounding restaurants.

Jeffrey Leibovitz, Rincon Park/South Beach CAC, indicated that they have seen this project over the last three years. It has changed several times. This is a great project for the location. Rincon Hill is currently under construction. There will be approximately 1800 to 3000 brand new residential units within a block of this restaurant. As far as competition goes, they won't have any problems. Most of those folks will be able to walk to the restaurant. They are taking advantage of the view of the bridge. It's about time that the landscape that has a place holder of crash granite becomes something that everybody can enjoy. It will add opportunities for people to enjoy the views, both public and inside the restaurants. People will be able to sit and enjoy a cup of coffee or a glass of wine along the waterfront on a nice sunny afternoon or take a break between coming off the ferry and walking over to the ballpark. He encouraged the Commission to approve this project and looks forward to the completion of the restaurants in two years.

6. NEW BUSINESS / AGENDA SETTING

Ms. Olson asked the Commission if they would like to add any items to the forward calendar. Commissioner Hardeman reminded the Acting Director that Director Moyer was going to calendar the new ferry service to Alcatraz item for either the November 10 or December 13 Commission meeting. Ms. Olson asked if he had a preference on the date of the presentation. Commissioner Hardeman replied that whatever is easiest for the Director as she was having trouble getting information. He requested the legal counsel to make sure that the presentation is itemized enough so that the Commissioners can participate in the discussion and comment on the item. Legal Counsel Noreen Ambrose replied that staff is working on how to get access to the information and proposal so staff can bring the information to the Commission for discussion.

7. PUBLIC COMMENT

Bill Stephens, Historic Ships Memorial at Pacific Square, updated the Commission on the circumstances surrounding the berthing of the USS Iowa in San Francisco as a memorial and museum. This project continues to galvanize national attention. No project, in the 13+ months that he has been watching the Commission, has galvanized the media such as this project. Mills didn't nor have any other projects. Merylin Wong was on the Daily Show, a national comedy show. The project was very well received. The New York Times is doing an article with the project with Merylin Wong. This project is getting substantial media and national attention. Politically, they continue to move forward. They met with Supervisor Sophie Maxwell and it was a productive discussion. She likes the project enormously. She wants to meet with Monique Moyer and the Port to go over this project. Supervisor Alioto-Pier has tried to meet with Monique and USS Iowa is also on that agenda. The Board of Supervisors is looking at this project. They are going for a new resolution. They are also meeting with Supervisors Mirkarimi and Ammiano. He thinks that this project is going to enjoy support at the Board of Supervisors' level. Recently, in the press, it was quoted that the Mills project will generate \$127 million. The Battleship North Carolina generates over \$325 million for Wilmington, a substantial economic output for the community. It bears serious attention. This project will repair the Port's piers, as they are in a dilapidated condition. The Mills project will help repair them but so will the Iowa. Pier 30/32 is problematic as a safety issue and Pier 35 in ten years will be in serious help. Commissioner Lazarus was quoted in the paper as saying that we need an economic engine. He couldn't agree with her more. The Iowa is such an engine. It will generate substantial economic output and repair the Port's piers. It will bring people to the waterfront. Those are the three criteria that the Commission judges the projects by. The Iowa meets them all.

Jim Malone, Military Education Initiative, indicated that their organization is working in collaboration with HSMPS to try to make this project come to San Francisco. They have been meeting with various supervisors such as Supervisor Maxwell and Dufty. They will be meeting with Supervisors Ammiano and Mirkarimi to discuss their plan. They are finding that they are generating a lot of interest amongst the board. They have also met with the Mayor and he is very interested in having a tour of the Iowa as are some of the supervisors. They are also meeting with various community groups and talking to them about their idea and getting a lot of support as well. Last night, they received the

endorsement of the Alice B. Toklas GLBT Democratic Club and Alexander Hamilton Post of the American Legion. They have been talking with the GLBT Historical Society and others to talk about having content to the museum. They are looking forward to meet with the Port Director and Assistant Director for Maritime to talk about the project further.

Merylin Wong, HSMPS, indicated that the USS Iowa continues to be written and talked about. She gave the Commission a copy of the Congressional Quarterly read by staffers and representatives. She gave the Commission a Congressional perspective as they work to obtain local government resolutions. This last weekend she was at the Roosevelt Estate in Hyde Park, New York. Hyde Park, like the FDR Memorial, is a presidential site to commemorate the presidents. The Roosevelt Institute headquartered in Hyde Park has designated USS Iowa its newest presidential site. They still have their backing. At Hyde Park, she was able to personally thank Senator Hillary Clinton for supporting Senator Feinstein's amendment to keep open the competitive bidding process for USS Iowa. Also present was her husband President Clinton, who she also thanked for signing off on the defense bill that enabled the ship to relocate to California from Rhode Island. Everybody in New York is extremely supportive of USS Iowa coming to the Port of San Francisco. There is no doubt in her mind that once a pier is made available that they would be able to circle all the necessary funds that are needed to finance this project.

8. EXECUTIVE SESSION

- A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

ACTION: Commissioner Brandon moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

At 4:05 p.m., the Commissioners withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTERS. (Discussion and/or Action Items)

- a. Discuss existing litigation matters pursuant to Section (a) of California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases):
 - As Plaintiff: Discussion and clarification of approved settlement of potential litigation against Miller Watts Constructors, Inc. ("Contractor," as successor to Miller Thompson, Inc.) relating to work performed on the Downtown Ferry Terminal Public Pier breakwater (also known as Pier 14 Breakwater) under Port Contract No. 2613.
 - Specialty Crushing, Inc., a California Corporation vs. City and County of San Francisco et al, Superior Court No. 437-349.

- (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.

*This session is closed to any non-City/Port representative.**

- a. Property: Pier 30

Person Negotiating: Port: Mirian Saez, Deputy Director, Real Estate

*Red's Java House: Steve & Maria Reilley

THIS ITEM WAS TAKEN OFF THE CALENDAR.

- b. Property: Piers 27 and 29

Person Negotiating: Port: Mirian Saez, Deputy Director, Real Estate

*The Float Barn Coordinator for San Francisco Parades aka Chinese Chamber of Commerce dba Southwest Airlines Chinese New Year Festival and Parade:
Dave Thomas

- c. Property: Seawall Lot 323, 324, 322-1

Person Negotiating: Port: Byron Rhett, Deputy Director, Planning & Development

*Stanford Hospitality: Lawrence Lui

10. RECONVENE IN OPEN SESSION

At 5:22 p.m. the Commission withdrew from executive session and reconvene in open session.

ACTION: Commissioner Hardeman moved approval to adjourn executive session and reconvene in open session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to disclose that the Commission authorized the settlement of the Miller Watts matter; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

ACTION: Commissioner Hardeman moved approval to not disclose any other information discussed in executive session; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

11. COMMUNICATIONS

12. ADJOURNMENT

ACTION: Commissioner Hardeman moved approval; Commissioner Lazarus seconded the motion. All of the Commissioners were in favor.

Commission President Wilfred Hsu adjourned the meeting at 5:26 p.m.





